



U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

**I. ADMINISTRATIVE INFORMATION**

Completion Date of Approved Jurisdictional Determination (AJD): April 7, 2021

ORM Number: SAC-2018-01837

Associated JDs: N/A

Review Area Location<sup>1</sup>:

State: SC City: Johns Island County: Charleston County

Center Coordinates of Review Area: Latitude 32.7319 Longitude -80.0711

**II. FINDINGS**

**A. Summary:** Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A.
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

**B. Rivers and Harbors Act of 1899 Section 10 (§ 10)<sup>2</sup>**

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

**C. Clean Water Act Section 404**

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)<sup>3</sup>

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Jurisdictional Tributary	1,543 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Tributary is displayed as a solid blue line stream on USGS topographic maps, an R5UBH (Riverine, Unknown Perennial, Unconsolidated Bottom and Permanently Flooded) habitat on the USFWS NWI map, and is visible from aerial imagery. Additionally, flow was observed during May and July 2018 site visits by the agent and an April 2019 site visit conducted by the Corps. Lastly, this feature transitions to a tidal system before its confluence with Church Creek and is therefore an (a)(1) water in this location. Please see Sections III(B) and III(C) for more information.
pRPW	402 feet	(a)(2) Perennial tributary contributes	pRPW is displayed as a solid blue line stream on

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

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<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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		surface water flow directly or indirectly to an (a)(1) water in a typical year	USGS topographic maps, an R5UBH (Riverine, Unknown Perennial, Unconsolidated Bottom and Permanently Flooded) habitat on the USFWS NWI map, and is visible from aerial imagery. Additionally, flow was observed during May and July 2018 site visits by the agent and an April 2019 site visit conducted by the Corps. Lastly, this feature transitions to a tidal system before its confluence with Church Creek and is therefore an (a)(1) water in this location. Please see Sections III(B) and III(C) for more information.
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Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A	N/A	N/A	N/A

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Jurisdictional Wetland	25.468 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland is a wetland complex that directly abuts and serves as the floodplain of Jurisdictional Tributary, an (a)(2) water of the United States described above.

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Excluded Waters Ditch A	952 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	The ditch segment on this parcel represents 952 feet of ditch excavated within uplands and that does not meet the criteria as any category of water. This ditch does carry flow, but does so only in response to precipitation.
Excluded Wetland A	0.166 acre	(b)(1) Non-adjacent wetland	This wetland is a closed polygon boundary that is not contiguous or directly abutting an (a)(1)-(a)(3) water. In addition, this wetland does not meet any of the other (a)(4) criteria for adjacency and thus is an excluded water pursuant to (b)(1).
Excluded Wetland B	0.11 acre	(b)(1) Non-adjacent wetland	This wetland continues off-site to the south. However, according to best available information, this wetland's boundary is closed off-site. Therefore, this wetland is a closed boundary polygon this is not contiguous or directly abutting an (a)(1)-(a)(3) water. In addition, this wetland does not meet any of the other (a)(4) criteria for adjacency and thus is an excluded water pursuant to (b)(1).
Excluded Wetland C	0.001 acre	(b)(1) Non-adjacent wetland	This wetland continues off-site to the south. However, according to best available information, this wetland's boundary is closed off-site. Therefore, this wetland is a closed boundary polygon this is not contiguous or directly abutting an (a)(1)-(a)(3) water. In addition, this wetland does not meet any of the other (a)(4) criteria for adjacency and thus is an excluded water pursuant to (b)(1).

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Excluded Wetland D	0.009 acre	(b)(1) Non-adjacent wetland	to (b)(1). This wetland continues off-site to the south. However, according to best available information, this wetland's boundary is closed off-site. Therefore, this wetland is a closed boundary polygon this is not contiguous or directly abutting an (a)(1)-(a)(3) water. In addition, this wetland does not meet any of the other (a)(4) criteria for adjacency and thus is an excluded water pursuant to (b)(1).
Excluded Wetland E	7.971 acres	(b)(1) Non-adjacent wetland	This wetland is a closed polygon boundary that is not contiguous or directly abutting an (a)(1)-(a)(3) water. In addition, this wetland does not meet any of the other (a)(4) criteria for adjacency and thus is an excluded water pursuant to (b)(1).

**III. SUPPORTING INFORMATION**

**A. Select/enter all resources** that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

- Information submitted by, or on behalf of, the applicant/consultant: *Request for Corps Jurisdictional Determination (JD) / Delineation submitted by Eric McClanahan (Cygnus Environmental, LLC) on behalf of Miles Martschink (CCTRE) dated September 24, 2020.* This information (is) sufficient for purposes of this AJD.  
Rationale: *N/A.*
- Data sheets prepared by the Corps: *N/A.*
- Photographs: *Photo Documentation 60-Acres Southwick Subdivision Johns Island, Charleston County, SC dated October 26, 2018, Figure 4 Aerial Photography via Google Earth and Figure 5 Wetland Determination Map via Charleston County GIS 2017 aerial photo submitted as part of the September 24, 2020 JD request.*
- Corps Site visit(s) conducted on: *April 2019 associated with a previous JD request for the site that was not finalized.*
- Previous Jurisdictional Determinations (AJDs or PJDs): *PJD SAC-2020-00135 on Residual Tract C Fenwick Hills Corporation TMS # 279-00-00-017.*
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: *Figure 2 Soils Map via NRCS Web Soil Survey submitted as part of the September 24, 2020 JD request.*
- USFWS NWI maps: *Figure 3 National Wetlands Inventory Map via Google Earth Layer "FWS Wetlands & Riparian" submitted as part of the September 24, 2020 JD request.*
- USGS topographic maps: *Figure 1 USGS Topographic Map via Google Earth layer "Earth Point Topo Maps" submitted as part of the September 24, 2020 JD request.*

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**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	Charleston District Regulatory Viewer hillshade data and LiDAR data.
State/Local/Tribal Sources	N/A.
Other Sources	Google Earth Pro© and Google Earth Pro© Street View

- B. Typical year assessment(s):** Antecedent Precipitation Tool (APT) data for typical year determination were calculated for the dates of site visits conducted at the site by both the agent and the Corps and for the dates of best available imagery via Google Earth Pro© street view at publicly accessible off-site culvert locations as follows: November 2007, May 2015, and July 2019. According to the agent for the JD request, site visits to conduct delineation activity were conducted in May and July of 2018. The Corps conducted a site visit in April 2019 to perform a delineation verification. According to output from the APT, conditions for the May and July 2018 site visits would have exhibited “wetter than normal” conditions with products of 16. Conditions for the April 2019 site visit by the Corps would have exhibited “drier than normal” conditions with a product of 9. Conditions for the November 2007 image would have exhibited “normal” conditions with a product of 10, conditions for the May 2015 image would have exhibited “wetter than normal” conditions with a product of 17, and conditions for the July 2019 images would have exhibited “normal” conditions with a product of 13.
- C. Additional comments to support AJD:** According to the aforementioned APT data and information provided by the agent, it was determined the on-site Jurisdictional Tributary and pRPW would exhibit flow continuously year-round and therefore are considered to be perennial tributaries. The on-site jurisdictional wetland and tributary complex continues offsite to the west. Based on a review of offsite information including Lidar, hillshade and aerial photographs, as well as photographs taken at publicly accessible points downstream of the project review area, the wetland and tributary complex flow west then directly into a tidal tributary of Church Creek, a TNW. The wetland and tributary complex exhibit a direct hydrologic surface connection between the on-site jurisdictional wetland and tributary and Church Creek via culverts under multiple roads. According to the aforementioned APT data, these culverts would be active at least once in a typical year. The on-site tributary appears to have been subject to manmade alterations (straightening and excavation). However, the tributary continues to satisfy the flow conditions and criteria included in the tributary definition (c)(12) of the NWPR.

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