



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): 05-APR-2021

ORM Number: SAC-2020-01550

Associated JDs: N/A

Review Area Location¹:

State: SC City: Prosperity County: Newberry County

Center Coordinates of Review Area: Latitude 34.227671 Longitude -81.463758

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)²

§ 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)³

(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
JT-1	995 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	JT-1 is a naturally occurring surface water channel that exhibits intermittent surface water flow. JT-1 can be identified as a topographic draw on LiDAR data. This tributary receives drainage from NJF-1, JW-B, JW-C, JW-D, JW-E, and JW-F and continues southeast offsite to Crims Creek, which flows into the Broad River and then the Congaree River, a Section 10 water. JT-1 exhibits an OHWM, bed and bank, a defined channel, and standing water at the time of documenting the tributary. JT-1 satisfies the flow conditions and criteria included in the tributary definition (c)(12) of the NWPR. Therefore, the Corps has determined the tributary to be

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

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ 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.

⁴ 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.

⁵ 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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JT-2	576 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	an (a)(2) water. JT-2 is a naturally occurring surface water channel that exhibits intermittent surface water flow. JT-2 can be identified as a topographic draw on LiDAR data. This tributary receives drainage from NJF-2 and NJF-3 and continues southeast offsite to the Crims Creek, which flows into the Broad River and then the Congaree River, a Section 10 water. JT-2 exhibits an OHWM, bed and bank, a defined channel, and standing water at the time of the documenting the tributary. JT-2 satisfies the flow conditions and criteria included in the tributary definition (c)(12) of the NWPR. Therefore, the Corps has determined the tributary to be an (a)(2) water.
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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
JW-B	0.05 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	JW-B is abutting and contiguous with the (a)(2) water, JT-1. JT-1 flows into an (a)(2) water, Crims Creek, and eventually to the Congaree River, an (a)(1) water.
JW-C	0.7 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	JW-C is abutting and contiguous with the (a)(2) water, JT-1. JT-1 flows into an (a)(2) water, Crims Creek, and eventually to the Congaree River, an (a)(1) water.
JW-D	0.04 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water in a typical year	JW-C, JW-D, JW-E, and JW-F are all one large wetland that has been transected by several dirt roads which allows for a direct hydrological surface connection within a typical year. JW-D is separated from JW-C only by a dirt road but is connected by an artificial structure (culvert) that provides a direct hydrologic surface connection to JW-C. JW-C directly abuts JT-1, an (a)(2) water.
JW-E	0.03 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water in a typical year	JW-C, JW-D, JW-E, and JW-F are all one large wetland that has been transected by several dirt roads which allows for a direct hydrological surface connection within a typical year. JW-E is separated from JW-D by a dirt road but is connected by an artificial structure (culvert) that provides a direct hydrologic surface connection to JW-D. JW-D is connected by an artificial structure (culvert) that provide a direct hydrological surface connection to JW-C, which directly abuts JT-1, an (a)(2) water.
JW-F	0.03 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water in a typical year	JW-C, JW-D, JW-E, and JW-F are all one large wetland that has been transected by several dirt roads which allows for a direct hydrological surface connection within a typical year. JW-F is separated from JW-C by a dirt road but is connected by an artificial structure (culvert) that provides a direct hydrologic surface connection to JW-C. JW-C directly abuts JT-1, an (a)(2)

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⁵ 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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
NJF-1	642 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NJF-1 lacked hydrological indicators of flow greater than ephemeral conveyance, flowing only in direct response to precipitation and non-channelized sheet flow recharge. This is a naturally occurring feature that originates in uplands, drains a small area, did not exhibit a clear OHWM, and had abundant leaf litter and debris within the streambed. NJF-1 does not meet the (c)(12) definition of tributary and thus has been determined to be a (b)(3) ephemeral feature.
NJF-2	452 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NJF-2 lacked hydrological indicators of flow greater than ephemeral conveyance, flowing only in direct response to precipitation and non-channelized sheet flow recharge. This is a naturally occurring feature that originates in uplands, drains a small area, did not exhibit a clear OHWM, and had abundant leaf litter and debris within the streambed. NJF-2 does not meet the (c)(12) definition of tributary and thus has been determined to be a (b)(3) ephemeral feature.
NJF-3	418 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NJF-3 lacked hydrological indicators of flow greater than ephemeral conveyance, flowing only in direct response to precipitation and non-channelized sheet flow recharge. This is a naturally occurring feature that originates in uplands, drains a small area, did not exhibit a clear OHWM, and had abundant leaf litter and debris within the streambed. NJF-3 does not meet the (c)(12) definition of tributary and thus has been determined to be a (b)(3) ephemeral feature.
NJF-4	304 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NJF-4 lacked hydrological indicators of flow greater than ephemeral conveyance, flowing only in direct response to precipitation and non-channelized sheet flow recharge. This is a naturally occurring feature that originates in uplands, drains a small area, did not exhibit a clear OHWM, and had abundant leaf litter and debris within the streambed. NJF-4 does not meet the (c)(12) definition of tributary and thus has been determined to be a (b)(3) ephemeral feature.
NJW-A	0.02 acres	(b)(1) Non-adjacent wetland	NJW-A is a closed boundary polygon 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).
NJW-G	0.004 acres	(b)(1) Non-adjacent wetland	NJW-G is a closed boundary polygon 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).

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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: *JD Package submitted by SM&E.*

This information is sufficient for purposes of this AJD.

Rationale: *The wetland data forms and information submitted by the agent are considered to be a reasonable representation of site conditions at the time of collection and are sufficient for purposes of this AJD.*

Data sheets prepared by the Corps: *N/A*

Photographs: *Photographs submitted by S&ME in the submittal dated November 4, 2020 and ESRI World Imagery – November 2020*

Corps Site visit(s) conducted on: *N/A*

Previous Jurisdictional Determinations (AJDs or PJDs): *N/A*

Antecedent Precipitation Tool: *Detailed discussion in Section III.B.*

USDA NRCS Soil Survey: *NRCS Web Soil Survey as submitted by the consultant dated November 5, 2020: Cecil, Pacolet, Rion, Wynott-Wilks, Wynott-Winnsboro*

USFWS NWI maps: *USFWS NWI Mapper 2019 as submitted by the consultant dated November 5, 2020:: No resources identified*

USGS topographic maps: *USGS 1:24K Quad, Little Mountain*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	3D Elevation Program (3DEP) LiDAR Map Service
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): The Antecedent Precipitation Tool (APT) data for the typical year assessment was calculated based on the field collection date denoted on the wetland determination data forms (October 30, 2020). Output from the APT indicated “normal” conditions at the time of data collection by the agent (S&ME) with a condition value of 12. APT Output with a condition value between 10 and 14 indicates “normal” conditions. Results of the APT indicate the extent and boundaries of the aquatic resources as documented are an accurate representation of what would be observed within a typical year.

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- C. Additional comments to support AJD:** This form documents an approximately 201-acre site that has two intermittent (a)(2) waters, two (a)(4) wetlands that directly abut an (a)(2) water, three (a)(4) wetlands that are separated from an (a)(1)-(a)(3) water only by an artificial structure that conveys surface hydrology within a typical year by an (a)(2) water (NOTE: direct hydrological connection of these wetlands within a typical year was determined based on a review of information submitted by the applicant, a review of remote sensing data, and APT data. See above for resource specific discussions), that were determined to be waters of the United States. The site also includes two (b)(1) excluded wetlands determined not to be waters of the United States due to lack of adjacency to an (a)(1) – (a)(3) water and four (b)(3) excluded ephemeral features that did not meet the (c)(12) definition of a tributary.

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