



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 21, 2021**

ORM Number: SAC-2020-01620

Associated JDs: N/A

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

State: South Carolina City: St. Matthews County: Calhoun

Center Coordinates of Review Area: Latitude 33.698514 Longitude -80.752655

**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 | 216 feet    | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | Tributary 1 is a naturally occurring unnamed intermittent tributary that continues off-site and contributes surface water flow to Halfway Swamp Creek an (a)(2) tributary of Lake Marion an (a)(1) Section 10 Water. Tributary 1 is shown on the USGS topo map as a solid blue line, has a well-developed OHWM, bed and banks, a well-defined channel, and had a series standing water pools and shallow subsurface/hyporheic water in the channel sediment at the time of the flagging/Corps site visits. Based on site evaluation and review of information submitted by applicant, it has been determined that the tributary |

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

<sup>2</sup> 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.

<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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|  |  |  | flows continuously during certain times of the year and more than in direct response to precipitation. Tributary 1 satisfies the flow conditions and criteria included in the (c)(12) tributary definition of the NWPR. Therefore, Tributary 1 has been determined to be an (a)(2) water of the U.S. |
|--|--|--|--|

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 |
|-------------|-------------|-----------------|------------------------------------|
| N/A         | N/A         | N/A             | N/A                                |

**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 Water 1 | 4085 feet      | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | Excluded Water 1 lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). Excluded Water 1 is shown on the USGS topo map as a blue line, however as at the time of the flagging/Corps site visits it originated in uplands, exhibited no clear and continuous OHWM, and had abundant leaf litter and debris within the streambed. Excluded Water 1 does not meet the (c)(12) definition of tributary and thus has been determined to be a (b)(3) ephemeral feature.  |
| Excluded Water 2 | 1355 feet      | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | Excluded Water 2 lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). Excluded Water 2 is shown on the USGS topo map as a blue line, however as at the time of the flagging/Corps site visits, it originated in uplands, exhibited no clear and continuous OHWM, and had abundant leaf litter and debris within the streambed. Excluded Water 2 does not meet the (c)(12) definition of tributary and thus has been determined to be a (b)(3) ephemeral feature. |
| Excluded Water 3 | 340 feet       | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | Excluded Water 3 lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). Excluded Water 3 originated in uplands, exhibited no clear and continuous OHWM, and had abundant leaf litter and debris within the streambed. Excluded Water 3 does not meet the (c)(12) definition of tributary and thus has been determined to be a (b)(3) ephemeral feature.  |
| Excluded Water 4 | 1577 feet      | (b)(3) Ephemeral feature, including  | Excluded Water 4 lacked hydrological indicators of flow   |

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<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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|------------------|----------|--|---|
|                  |          | an ephemeral stream, swale, gully, rill, or pool                                     | greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). Excluded Water 4 is shown on the NWI map as a (R4SBC) blue line, however as at the time of the flagging/Corps site visits it originated in uplands, exhibited no clear and continuous OHWM, and had abundant leaf litter and debris within the streambed. Excluded Water 4 does not meet the (c)(12) definition of tributary and thus has been determined to be a (b)(3) ephemeral feature.  |
| Excluded Water 5 | 765 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | Excluded Water 5 lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). Excluded Water 5 is shown on the NWI map as a (R4SBC) blue line, however as at the time of the flagging/Corps site visits it originated in uplands, originated in uplands, exhibited no clear and continuous OHWM, and had abundant leaf litter and debris within the streambed. Excluded Water 4 does not meet the (c)(12) definition of tributary and thus has been determined to be a (b)(3) ephemeral feature. |

**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: **Jurisdictional Determination Request dated September 25, 2020.**

This information *is* sufficient for purposes of this AJD.

**Rationale: The wetland data forms, and additional information submitted by the agent are 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: **Photos 1-17 of 17 provided by the consultant in the Jurisdictional Determination Request. Corps site visit photos. Aerial Photos provided by agent titled "2019 Aerial / Photo Log Legend" dated September 17, 2020, "2006 Infrared Aerial / USGS NHD / USFWS NWI Map" dated September 17, 2020**

Corps Site visit(s) conducted on: **February 9, 2021**

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

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

USDA NRCS Soil Survey: **Provided by consultant titled "St Matthews & Fort Motte EXHIBIT NO. 2" dated September 17, 2020.**

USFWS NWI maps: **Provided by consultant titled "2006 Infrared Aerial / USGS NHD / USFWS NWI Map" dated September 17, 2020.**

USGS topographic maps: **Provided by consultant titled "2006 Infrared Aerial / USDA**

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**NRCS Soils Map” dated September 17, 2020.**

**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              | SAC Regulatory Viewer accessed November 2020,   |
| 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 dates denoted on the wetland determination data forms and submitted photos (September 1, 2020), and the date of the Corps site visit (February 9, 2021). Output from the APT indicated “wetter than normal” conditions at the time of data collection by the agent in September 2020 with a condition value of 17, and “normal” conditions at the time of the Corps site visit in February 2021 with a condition value of 14. APT Outputs with condition values greater than or equal to 15 indicates “wetter than normal” conditions, condition values between 10 and 14 indicate “normal” conditions, and condition values less than or equal to 9 indicates “drier than normal conditions. Results of the APT indicate the boundaries of the aquatic resources as documented here have been observed during multiple condition values and are an accurate representation of the extent and boundaries that would be observed within a typical year.

**C. Additional comments to support AJD:** This form documents an approximately 809.87-acre site that includes one intermittent (a)(2) water that was determined to be waters of the United States.

The site also includes five (b)(3) excluded waters that were determined not to be waters of the United States.

The USGS topo and NWI shows a blue polygon near the eastern boarder of the property, however at the time of flagging/Corps site visit no aquatic resource was observed.

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