



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): **August 20, 2020**

ORM Number: **SAC-2018-01612**

Associated JDs: **(SAC-2013-00073 AJD, SAC-2018-01613 AJD, SAC-2018-01612 PJD)**

Review Area Location¹:

State/Territory: **South Carolina** City: **Lexington** County/Parish/Borough: **Lexington County**

Center Coordinates of Review Area: Latitude **33.906753** Longitude **-81.047382**

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
N/A	N/A	N/A	N/A

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

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Excluded Water (b)(10) NJF-1 (Detention Pond)	0.25 acres	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff	The pond located within the review area is wholly excavated from uplands, does not contribute flow to an (a)(1-3) water, and does not meet the criteria of a jurisdictional feature as identified in paragraph (c)(6).
Excluded Water (b)(10) NJF-2 (Detention Pond)	0.49 acres	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff	The pond located within the review area is wholly excavated from uplands, does not contribute flow to an (a)(1-3) water, and does not meet the criteria of a jurisdictional feature as identified in paragraph (c)(6).
Excluded Water (b)(1) Non- Jurisdictional Wetland A	6.18 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).
Excluded Water (b)(1) Non- Jurisdictional Wetland Z	0.6 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: **S&ME, Inc. "Aerial Exhibit, Saxe Gotha Industrial Park Lot III" dated August 14, 2020.**

This information is sufficient for purposes of this AJD.

Rationale: **The Corps agrees with the conclusions of the data sheets and submitted report.**

☐ Data sheets prepared by the Corps:

☒ Photographs:

- **Consultant provided photos 1-12 of 12 dated 6/12/2018.**
- **Aerial Image- Digital Globe 4-28-2020.**
- **Corps site visit photo report. Photos 1-17 of 17 Dated 7/28/2020**

☒ Corps Site visit(s) conducted on: **October 10th and 19th, November 8th and 9th, and December 12th, 2012, and July 28, 2020.**

☒ Previous Jurisdictional Determinations (AJDs or PJDs): **(SAC-2013-00073 AJD issued March 19, 2013, SAC-2018-01613 AJD issued October 11, 2018, SAC-2018-01612 PJD issued October 11, 2018).**

☒ Antecedent Precipitation Tool: provide detailed discussion in Section III.B.

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- ☒ **USDA NRCS Soil Survey: SSURGO soil data as ArcMap layer: Goldsboro, Rains, Johnston.**
- ☒ **USFWS NWI maps: Title(s) and/or date(s). USFWS National Wetland Inventory**
- ☐ **USGS topographic maps: Title(s) and/or date(s). USGS webservice topo map Southwest Columbia Quad.**

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
State/Local/Tribal Sources	SCDNR Lexington County LiDAR Data
Other Sources	Aerial Photograph Index, Lexington County (S.C.), 1938–1939, Sheet 6 of 8

- B. Typical year assessment(s):** The Antecedent Precipitation Tool (APT) data for typical year determination was calculated based on field collection data denoted on the originally included wetland delineation data forms (June 12, 2018). Output from the APT indicated "Normal Conditions" at the time of data collection by the agent (SM&E) (condition value of 12). ATP outputs with a condition value greater than 14 indicate "wetter than normal" conditions, "normal" conditions range from 10-14, and values less than 10 are considered "drier than normal." Results of the APT indicate the Corps has observed this site during the wet season at normal conditions both in 2012 (condition value of 10), and 2018 (condition value of 12), and the Corps has also observed this site during the dry season at wetter than normal conditions in 2020 (condition value of 15).
- C. Additional comments to support AJD:** Request for AJD under the new Rule for a parcel that previously received three JDs (SAC-2013-00073 AJD issued March 19, 2013, SAC-2018-01613 AJD issued October 11, 2018, SAC-2018-01612 PJD issued October 11, 2018).

There are two (b)(10) current SCDHEC permitted upland dug detention ponds located within this project boundary under the permit No. SCR10H679, NJF-1, and NJF-2.

There are two (b)(1) Non-adjacent wetlands located on site, Wetland A, and Wetland Z. The Corps has conducted six separate site visits (October 10th and 19th, November 8th and 9th, December 12th, 2012, and July 28, 2020) on this parcel to determine the status of waters on-site. Wetland A has several non-jurisdictional drainages that leave the wetland. These drainages were observed during all site visits and were not considered to be waters of the U.S. Wetland Z is separated from Wetland A and has no features leaving the wetland. These wetlands do not meet the adjacency requirements of an (a)(4) wetland, as they only contribute surface flow in direct response to wetter than normal precipitation conditions through an upland dug ephemeral drainage feature (NAR-3 (Ditch)). NAR-3

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Ditch is an upland dug ephemeral drainage feature. It appears to have been constructed for agricultural purposes sometime before the 1930s. This is shown on historic aerial imagery, LiDAR, and other mapping/data. It has been reviewed by the Corps multiple times over the span of eleven years through information submitted by applicants in multiple JD requests, and observed by the Corps during site visits conducted during the wet season at normal conditions (APT) on October 10th and 19th, November 8th and 9th, and December 12th, 2012, during these site visits no flow or signs of flow within a typical year was observed. Water in NAR-3 Ditch has only been observed by the Corps or the applicants/agents, during the site visit conducted on July 28, 2020, but it was during wetter than normal conditions according to the APT. NAR-4 Ditch is a smaller feature than NAR-3 Ditch and ends at an old logging road. This feature has no OHWM or signs of flow and is not a water of the U.S.

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