



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 4, 2021
 ORM Number: SAC-2012-01169
 Associated JDs: Previous AJDs under the same SAC# dated 12/12/2013, 10/19/2018, 3/26/2020
 Review Area Location¹:
 State: SC City: Cayce County: Lexington County
 Center Coordinates of Review Area: Latitude 33.888885 Longitude -81.033298

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
Jurisdictional Tributary A	3,933 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional TributaryA (JT-A) is a naturally occurring named tributary (Toms Branch) mapped by USGS as a solid blue line, indicating potential perennial flow. During site visits the tributary exhibited strong flow, with associated channel development, sediment sorting and other indications of perennial flow. JT-A serves as the main tributary on the site and into which all the jurisdictional and non-jurisdictional features drain on the north side of the site. JT-A continues off-site flowing directly into TNW Congaree River. On this basis, JT-A has been determined to be a tributary with perennial flow and thus an (a)(2) water.

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.

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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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Jurisdictional Tributary B	527 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Tributary B (JT-B) is a naturally occurring unnamed tributary mapped by USGS as a dashed blue line, indicating potential perennial flow. This tributary was relocated at some point to run parallel on the south side of the access road. At the time of flagging/Corps site visit the tributary exhibited strong flow, with associated channel development, sediment sorting and other indications of perennial flow. JT-B continues off-site flowing directly into TNW Congaree River. On this basis, JT-B has been determined to be a tributary with perennial flow and thus 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
Jurisdictional Wetland B	14.93 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdiction Wetland B (JWB) is contiguous and directly abutting (a)(2) tributary JT-A described above. On this basis, wetland JWB is an (a)(4) water.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Excluded Water, Stormwater Control Feature A	0.39 acre	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff	This pond is constructed entirely in uplands and does not contribute flow to an (a)(1)-(a)(3) water in a typical year. Since this feature was constructed to meet the requirements of CWA Section 402 it is a (b)(10) excluded water.
Excluded Water, Stormwater Control Feature	0.69 acre	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff	This pond is constructed entirely in uplands and does not contribute flow to an (a)(1)-(a)(3) water in a typical year. Since this feature was constructed to meet the requirements of CWA Section 402 it is a (b)(10) excluded water.
Excluded Water, Stormwater Control Feature C	0.65 acre	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff	This pond is constructed entirely in uplands and does not contribute flow to an (a)(1)-(a)(3) water in a typical year. Since this feature was constructed to meet the requirements of CWA Section 402 it is a (b)(10) excluded water.
Excluded Water, Stormwater Control Feature D	0.56 acre	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff	This pond is constructed entirely in uplands and does not contribute flow to an (a)(1)-(a)(3) water in a typical year. Since this feature was constructed to meet the requirements of CWA Section 402 it is a (b)(10) excluded water.
Excluded Water, Stormwater Control Feature E	0.63 acre	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store	This pond is constructed entirely in uplands and does not contribute flow to an (a)(1)-(a)(3) water in a typical year. Since this feature was constructed to meet the requirements of CWA Section 402 it is a (b)(10)

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		stormwater runoff	excluded water.
Excluded Water, Wetland C	16.96 acres	(b)(1) Non-adjacent wetland	Wetland C a closed boundary polygon that is not contiguous or directly abutting an (a)(1)-(a)(3) water. This wetland does continue off-site, however a review of best available data (Google Earth aerial imagery with corresponding APT data, LiDAR data, NWI, USGS topographic maps, and NRCS soil maps) further demonstrates this wetland's non-adjacency to 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, Wetland D	1.52 acres	(b)(1) Non-adjacent wetland	Wetland D 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).
Excluded Water, Wetland E	2.6 acres	(b)(1) Non-adjacent wetland	Wetland E is a closed boundary polygon that is not contiguous or directly abutting an (a)(1)-(a)(3) water. This wetland does continue off-site, however a review of best available data (Google Earth aerial imagery with corresponding APT data, LiDAR data, NWI, USGS topographic maps, and NRCS soil maps) further demonstrates this wetland's non-adjacency to 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, Wetland A	7.22 acres	(b)(1) Non-adjacent wetland	Wetland A is a closed boundary polygon that is not contiguous or directly abutting an (a)(1)-(a)(3) water. This wetland does continue off-site, however a review of best available data (Google Earth aerial imagery with corresponding APT data, LiDAR data, NWI, USGS topographic maps, and NRCS soil maps) further demonstrates this wetland's non-adjacency to 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: **Jurisdictional Determination Request dated March 5, 2021.**

This information (*is/is not/is and is not*) 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:

Photographs: **Photos provided by the consultant on data forms. Corps site visit photos**

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dated May 11, 2021. Aerial Provided by consultant titled “Figure 4. Aerial Map” dated March 2021.

- Corps Site visit(s) conducted on: **May 11, 2021.**
- Previous Jurisdictional Determinations (AJDs or PJDs): **Previous AJDs under the same SAC# dated 12/12/2013, 10/19/2018, 3/26/2020**
- Antecedent Precipitation Tool: Detailed discussion in Section III.B.
- USDA NRCS Soil Survey: **Provided by consultant titled “Figure 5. NRCS Soil Map” dated March 2021.**
- USFWS NWI maps: **Provided by consultant titled “Figure 6. NWI Wetlands Map” dated March 2021.**
- USGS topographic maps: **Provided by consultant titled “Figure 3. USGS Topo Map” dated March 2021.**

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS 3D Elevation Program (3DEP) Map Service
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	SAC Regulatory Viewer.
State/Local/Tribal Sources	N/A.
Other Sources	Google Earth Pro aerial imagery dated 5/2/2018, 12/4/2019, 4/27/2020, 2/20/2021

B. Typical year assessment(s): The Antecedent Precipitation Tool (APT) data for the typical year assessment were calculated based on the field collection dates denoted on the wetland determination data forms and submitted photos (2/3/2021), and the date of the Corps site visit (5/5/2021). Output from the APT indicated “wetter than normal” conditions at the time of data collection by the agent February 2021 with a condition value of 15, “normal” conditions at the time of Corps site visit in May 2021 with a condition value of 13. ATP data were also generated for the Google Earth Aerial images dated 5/2/2018, 12/4/2019, 4/27/2020, 2/20/2021 to support assessment of connectivity or lack thereof to the Congaree River. Output from the APT indicated “normal” conditions with condition values 11 (2018), 14 (2019), and 13 (2020), and “wetter than normal” condition value of 18 (2021). APT outputs with condition values between 10 and 14 indicate “normal” conditions, and condition values greater than or equal to 15 indicate “wetter 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.

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- C. Additional comments to support AJD:** Requested for AJD under the Navigable Waters Protection Rule for a parcel that previously received three AJDs under this same SAC# dated 12/12/2013, 10/19/2018, 3/26/2020.

This form documents an approximately 245.4-acre site that includes two perennial (a)(2) waters, and one wetland (a)(4) water that were determined to be waters of the United States.

The site also includes four (b)(1), and five (b)(10) excluded waters, that were determined not to be waters of the United States.

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