



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 26, 2021

ORM Number: SAC-2020-00508

Associated JDs: N/A

Review Area Location¹:

State: SC City: Seabrook Island County: Charleston County

Center Coordinates of Review Area: Latitude 32.6094 Longitude -80.1397

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
DHEC/OCRM Critical Area I-B	9.89 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	DHEC/OCRM Critical Area I-B is subject to ebb and flow of the tide and thus is an (a)(1) water of the United States.
DHEC/OCRM Critical Area III	21.13 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	DHEC/OCRM Critical Area III is subject to ebb and flow of the tide and thus is an (a)(1) water of the United States.
DHEC/OCRM Critical Area III-A	1.13 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	DHEC/OCRM Critical Area III-A is subject to ebb and flow of the tide and thus is an (a)(1) water of the United States.
DHEC/OCRM Critical Area VI	3.42 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	DHEC/OCRM Critical Area VI is subject to ebb and flow of the tide and thus is an (a)(1) water of the United States.

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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DHEC/OCRM Wetland Critical Area II(A)	9.42 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	DHEC/OCRM Wetland Critical Area II(A) is subject to ebb and flow of the tide and thus is an (a)(1) water of the United States.
DHEC/OCRM Wetland Critical Area II(B)	40.87 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	DHEC/OCRM Wetland Critical Area II(B) is subject to ebb and flow of the tide and thus is an (a)(1) water of the United States.

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
DHEC/OCRM Critical Area I-B	9.89 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	DHEC/OCRM Critical Area I-B is subject to ebb and flow of the tide and thus is an (a)(1) water of the United States.
DHEC/OCRM Critical Area III	21.13 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	DHEC/OCRM Critical Area III is subject to ebb and flow of the tide and thus is an (a)(1) water of the United States.
DHEC/OCRM Critical Area III-A	1.13 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	DHEC/OCRM Critical Area III-A is subject to ebb and flow of the tide and thus is an (a)(1) water of the United States.
DHEC/OCRM Critical Area VI	3.42 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	DHEC/OCRM Critical Area VI is subject to ebb and flow of the tide and thus is an (a)(1) water of the United States.
DHEC/OCRM Wetland Critical Area II(A)	9.42 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	DHEC/OCRM Wetland Critical Area II(A) is subject to ebb and flow of the tide and thus is an (a)(1) water of the United States.
DHEC/OCRM Wetland Critical Area II(B)	40.87 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	DHEC/OCRM Wetland Critical Area II(B) is subject to ebb and flow of the tide and thus is an (a)(1) water of the United States.

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

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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 I-B	13.74 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland I-B continues off-site to the south and directly abuts the Mean High Water Mark (MHW) of an off-site tidal tributary that is subject to the ebb and flow of the tide.
Jurisdictional Wetland II(A)	5.71 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature	Jurisdictional Wetland II(A) is separated from DHEC/OCRM Wetland Critical Area II(B) by an artificial structure (earthen berm). However, a culvert located within the berm is active at least once in a typical year and provides a direct hydrologic connection.
Jurisdictional Wetland II(B)	10.92 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland II(B) is contiguous with and directly abuts the MHW of DHEC/OCRM Wetland Critical Area II(B).
Jurisdictional Wetland II(C)	0.89 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland II(C) is contiguous with and directly abuts the MHW of DHEC/OCRM Wetland Critical Area II(A).

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Excluded Water (B1) Wetland III	0.69 acre	(b)(1) Non-adjacent wetland	This wetland is a closed boundary polygon that is not contiguous to 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 B1 Wetland VI(A)	0.28 acre	(b)(1) Non-adjacent wetland	This wetland is a closed boundary polygon that is not contiguous to 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 B1 Wetland VI(B)	0.33 acre	(b)(1) Non-adjacent wetland	This wetland is a closed boundary polygon that is not contiguous to 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 B10 Stormwater Feature	5.9 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	This stormwater control feature was constructed in upland under a valid state stormwater permit, and as such is an excluded water.
Excluded Water B8 Artificial Pond	4.14 acres	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional	This pond is constructed wholly in uplands and does not contribute flow to an (a)(1)-(a)(3) water.

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		water that meets (c)(6)	
Wetland III-A	0.03 acre	(b)(1) Non-adjacent wetland	This wetland is a closed boundary polygon that is not contiguous to 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: *Andell Tract NEI Project # 01-3918a Charleston County, South Carolina dated April 6, 2020.*
This information *is and is not* sufficient for purposes of this AJD.
Rationale: *An updated figure was required in order to display tidal aquatic resources within the review area.*
- Data sheets prepared by the Corps: *N/A.*
- Photographs: *Site Photographs dated April 2020 submitted as part of the April 6, 2020 JD request.*
- Corps Site visit(s) conducted on: *January 11, 2021 and February 10, 2021.*
- Previous Jurisdictional Determinations (AJDs or PJDs): *SAC-1989-25041 (fka SAC 49-89-431) dated July 29, 1992 and SAC-2011-00681 (fka SAC 2011-00681-2JY) dated November 7, 2011.*
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: *Soils Map dated April 2020 submitted as part of the April 6, 2020 JD request.*
- USFWS NWI maps: *NWI Map dated April 2020 submitted as part of the April 6, 2020 JD request.*
- USGS topographic maps: *USGS Quad Map dated April 2020 submitted as part of the April 6, 2020 JD request.*

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	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

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- B. Typical year assessment(s):** A typical year assessment is necessary to determine if the on-site culvert between Jurisdictional Wetland II(A) and DHEC/OCRM Wetland Critical Area II(B) is active at least once in a typical year. APT results were generated for the date of Newkirk's site visit via submitted wetland data sheet (May 9, 2018) and the Corps site visits (January 11, 2021 and February 10, 2021). Based on the APT data, all three dates displayed normal conditions with a product of 14, 10, and 11 respectively.
- C. Additional comments to support AJD:** Based on the typical year assessment and the lack of inundation within Jurisdictional Wetland II(A), this office has determined the culvert within the artificial structure between Jurisdictional Wetland II(A) and DHEC/OCRM Wetland Critical Area II(B) is active at least once in a typical year and provides a direct hydrologic connection.

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