



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 5, 2021

ORM Number: SAC-2021-00342

Associated JDs: N/A

Review Area Location¹:

State: SC City: Burton County: Beaufort County

Center Coordinates of Review Area: Latitude 32.4209 Longitude -80.7415

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
Drainage Ditch 1	1,205 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This feature was constructed within a wetland and has an intermittent flow regime. The ditch travels through culverts under SC Highway 170 and two other roads before draining into a branch of Battery Creek (an (a)(1) water). See Sections III.B-C for more information.

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

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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.

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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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Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland A	8 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland A is an area of wetlands west of SC Highway 170 that directly abuts Drainage Ditch 1, a jurisdictional (a)(2) tributary. See Section III.C for more information.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland B	0.46 acre	(b)(1) Non-adjacent wetland	Wetland B does not meet the (c)(1) adjacent wetland criteria since it does not abut an (a)(1)-(a)(3) water, is not inundated by such a water, and is not separated from such a water by only an artificial structure or natural feature.
Wetland C	0.15 acre	(b)(1) Non-adjacent wetland	Wetland C does not meet the (c)(1) adjacent wetland criteria since it does not abut an (a)(1)-(a)(3) water, is not inundated by such a water, and is not separated from such a water by only an artificial structure or natural feature.
Wetland D	0.71 acre	(b)(1) Non-adjacent wetland	Wetland D does not meet the (c)(1) adjacent wetland criteria since it does not abut an (a)(1)-(a)(3) water, is not inundated by such a water, and is not separated from such a water by only an artificial structure or natural feature. See Section III.C for more information.
Wetland E	0.79 acre	(b)(1) Non-adjacent wetland	Wetland E does not meet the (c)(1) adjacent wetland criteria since it does not abut an (a)(1)-(a)(3) water, is not inundated by such a water, and is not separated from such a water by only an artificial structure or natural feature.
Wetland F	0.03 acre	(b)(1) Non-adjacent wetland	Wetland F does not meet the (c)(1) adjacent wetland criteria since it does not abut an (a)(1)-(a)(3) water, is not inundated by such a water, and is not separated from such a water by only an artificial structure or natural 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: *Request For Corps Jurisdictional Determination (JD)/Delineation, February 18, 2021*.
This information (*is and is not*) sufficient for purposes of this AJD.
Rationale: *Incorrect coordinates were provided on data sheets; insufficient information on site conditions to document delineation was provided.*
- Data sheets prepared by the Corps: *N/A*.

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- Photographs: *Site photos provided by requestor (February 17, 2021); Google Earth Imagery (March 8, 2021); Google Street View (January 2008, May 2019).*
- Corps Site visit conducted on: *June 8, 2021.*
- Previous Jurisdictional Determinations (AJDs or PJDs): *N/A.*
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: *Web Soil Survey: Beaufort County, South Carolina (2020).*
- USFWS NWI maps: *NWI Wetlands Mapper, July 26, 2021.*
- USGS topographic maps: *Beaufort 7.5' topographic map, 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	N/A.
State/Local/Tribal Sources	LiDAR data from the South Carolina Department of Natural Resources/USGS
Other Sources	N/A.

B. Typical year assessment(s): A typical year assessment was conducted to determine if a surface hydrologic connection occurs in a typical year between Wetland A and Battery Creek via Drainage Ditch 1. Drainage Ditch 1 must also have an intermittent or perennial flow regime and contribute flow in a typical year to Battery Creek in order to be jurisdictional under the Navigable Waters Protection Rule (NWPR). Culverts can prevent a surface connection from occurring if the culvert is plugged by sediment or becomes perched above a streambed by erosion. When these situations occur, evidence of pooling water is usually visible on satellite imagery.

To complete the assessment, the Antecedent Precipitation Tool (APT) was used by the Corps. The APT analyzes antecedent precipitation for the 90 days prior to a specified date in time and determines if it was within the 30-year average. The APT also reports the Palmer Drought Severity Index (a measure of regional drought conditions) as well as the WebWIMP H2O balance (wet season or dry season conditions based on a comparison of precipitation and evapotranspiration).

The APT was ran for March 8, 2021, which is the date of the latest Google Earth aerial imagery for the area. This imagery clearly shows Wetland 1, Drainage Ditch 1, and all downstream road crossings between the review area and Battery Creek. Results from the APT show that March is considered the wet season in this area and that the Palmer Drought Severity Index was at 'normal'. Antecedent precipitation for the 90 days prior to March 8, 2021 was considered within the normal range. However, the 30 days prior to this date were wet with above-average precipitation observed. The 30-day rolling average for this date was nearly 5 inches, and nearly an 1 inch of precipitation was received on two days in the week prior to March 8th.

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Based on this information, antecedent conditions were wetter-than-normal for the 30 days prior to March 8, 2021 but within the normal range for the 90 days prior. Within satellite imagery, no evidence of ponding water or excessively wet areas were observed, suggesting that flows in Drainage Ditch 1 between Wetland 1 and Battery Creek are not restricted by road crossings or culverts. Furthermore, ground photos from the consultant and satellite imagery indicates that Drainage Ditch 1 flows seasonally and has an intermittent flow regime.

C. Additional comments to support AJD:

Wetland A and Drainage Ditch 1:

Wetland A is the upper end of a forested wetland which was formerly contiguous and adjacent to a branch of Battery Creek (a tidal (a)(1) water). However, South Carolina Highway 170 and two local roads have been built across the wetlands downstream of the review area during modern times, dividing it into four sections. Within these wetlands, Drainage Ditch 1 was constructed to manage water and convey flows from Wetland A to Battery Creek through culverts that have been placed under all of the road crossings downstream of the review area. Because of Drainage Ditch 1, Wetland A has a hydrological surface connection in a typical year to Battery Creek through (See III.B).

Under NWPR, a ditch qualifies as an (a)(2) tributary if it has an intermittent or perennial flow regime, was constructed within an adjacent wetland, and contributes flow to an (a)(1)-(a)(4) water. Furthermore, a wetland is considered an (a)(4) adjacent wetland if it directly abuts an (a)(1)-(a)(3) water. Based on the conditions observed, Drainage Ditch 1 is an (a)(2) tributary since it has an intermittent flow regime, was constructed within an adjacent wetland, and contributes flow to an (a)(1) water (Battery Creek) in a typical year. Wetland A is considered an (a)(4) adjacent wetland since it directly abuts Drainage Ditch 1.

Wetland D:

Based on LiDAR data of the review area, Wetland D was formerly a meandering branch of Wetland A that extended to the south of the review area. However, South Carolina Highway 170 and other roads have been constructed through the wetland, breaking it up into several segments. During the June 8, 2021 site visit, no culverts were observed under Highway 170 where it crosses Wetland D and its original connection to Wetland A has been severed. Instead, a roadside ditch has been constructed along the highway (and the southern boundary of the review area) to form a new connection point to Wetland A (a jurisdictional (a)(4) water). Based on field observations and LiDAR data, the roadside ditch connecting Wetland D and A was constructed in the uplands and contains a significant amount of live vegetation (grasses, forbs, etc.). No water or clear signs of flow were observed in the ditch during the Corps' June 8, 2021 site visit which suggests that it has an ephemeral flow regime. Based on these observations, the roadside ditch does not have the required flow regime to qualify as an (a)(2)

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tributary under the NWPR. Because Wetland D has been severed from the rest of Wetland A and is no longer adjacent to a jurisdictional water, Wetland D does not qualify as an (a)(4) adjacent wetland and is not jurisdictional under the NWPR.

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