



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 11, 2021

ORM Number: SAC-2021-00911

Associated JDs: N/A.

Review Area Location¹:

State: SC City: Jedburg County: Dorchester County

Center Coordinates of Review Area: Latitude 33.065 Longitude -80.2275

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

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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	12.33 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland A is part of a larger wetland complex that continues off-site to the north where it directly abuts the ordinary high water mark of Stanley Branch, which is an (a)(2) tributary. Therefore, Wetland 1 meets the (c)(1) adjacency requirements under the Navigable Waters Protection Rule and is jurisdictional. See III.B-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
Ditch D	52.44 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Based on photographs and wetland delineation information, this feature was constructed in the uplands, has an ephemeral flow regime, and is not a relocated tributary. Therefore, this feature is a (b)(5) excluded ditch.
Ditch E	70.61 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Based on photographs and wetland delineation information, this feature was constructed in the uplands, has an ephemeral flow regime, and is not a relocated tributary. Therefore, this feature is a (b)(5) excluded ditch.

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 Jurisdictional Determination (JD)/Delineation (May 25, 2021); Survey Plat (August 6, 2021).*

This information is sufficient for purposes of this AJD.

Rationale: *N/A.*

Data sheets prepared by the Corps: *N/A.*

Photographs: *Ground Photos provided by consultant (February 23, 2021); Google Earth Imagery (January 28, 2021); Google Street View (December 2018, August 2019).*

Corps Site visit(s) conducted on: *N/A.*

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 (accessed August 9, 2021).*

USFWS NWI maps: *NWI Wetlands Mapper (accessed August 9, 2021).*

USGS topographic maps: *Summerville and Ridgeville 7.5' topographic maps (2020).*

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Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrography Dataset
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 exists between the review area and the Ashley River (an (a)(1) water). This assessment is required to determine if Wetland C is jurisdictional under the Navigable Waters Protection Rule (NWPR) as an (a)(4) adjacent wetland (see III.C). Specifically, Stanley Branch (located adjacent to the review area and Wetland C) must have either an intermittent or perennial flow regime and must contribute flow to the Ashley River in a typical year in order for a jurisdictional connection to exist.

To conduct the typical year assessment, the Antecedent Precipitation Tool (APT) was used. The APT facilitates the comparison of precipitation from the previous 90 days to the range of normal rainfall conditions that occurred during the previous 30 years. The APT is also used to assess the presence of drought conditions as well as the approximate data of the wet and dry seasons for a given location. Refer to the APT’s documentation for more information on the methodology used by the tool (<https://www.epa.gov/wotus/antecedent-precipitation-tool-apt>).

January 28, 2021 was the date selected to analyze with the APT. Google Earth imagery from this date clearly shows water within Stanley Branch from the project area to its confluence with the Ashley River. Several potential barriers (e.g., culverts or road crossings) which may prevent a typical year connection are also clearly visible but there were no visible blockages or evidence of pooling other than in wetland areas.

Results from the APT show that the precipitation conditions from the previous 90 days were within the normal range. The tool also reported that January is considered the wet season for this area (precipitation exceeds evapotranspiration rates). However, due to an error, the APT was not able to report the drought conditions for this date.

Although the presence of drought conditions could not be determined, antecedent precipitation conditions prior to January 28, 2021 were within the normal range for that time of year. Based on the APT results and the visible connection to the Ashley River in satellite imagery, Stanley Branch exhibits at least an intermittent flow regime and has a connection to the Ashley River. This determination is

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supported by the National Hydrography Dataset, which shows this connection and reports Stanley Branch as having a perennial flow regime.

Based on this assessment, a typical year flow contribution exists between the review area and the Ashley River via Stanley Branch, which qualifies as an (a)(2) tributary.

- C. Additional comments to support AJD:** Wetland C is a forested wetland complex located along the northern and western parts of the review area. To qualify as an (a)(4) adjacent wetland under the NWPR, Wetland C must touch at least one point or side of an (a)(1), (a)(2), or (a)(3) water. (a)(2) waters are tributaries that have an intermittent or perennial flow regime and contribute flow directly to an (a)(1) water or indirectly through other (a)(2)-(a)(4) waters in a typical year.

Based on the typical year assessment in III.B, Stanley Branch qualifies as an (a)(2) water since it has a perennial flow and directly contributes flow to an (a)(1) water. Since Wetland C directly abuts Stanley Branch, these wetlands are jurisdictional under the NWPR as an (a)(4) adjacent wetland.

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