



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): February 3, 2021

ORM Number: SAC-2020-01247 Cooper Folly Road Tract

Associated JDs: SAC-2012-01021; SAC-2012-01017

Review Area Location¹: Site is a 5.1-acre project area located on James Island, TMS #431-00-00-289

State: SC City: Charleston County: Charleston County

Center Coordinates of Review Area: Latitude 32.6980 Longitude -79.9669

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
Tidal Waters (Critical Area canal)	0.262 acre	(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	Tidal Waters (Critical Areas canal) is an estuarine wetland/waters subject to the ebb and flow of the tide.

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
Tidal Waters (Critical Area canal)	0.262 acre	(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	Tidal Waters (Critical Area canal) is an estuarine wetland/waters subject to the ebb and flow of the tide.

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):

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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(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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Excluded Water (Ditch 1)	164 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)	Ditch 1 is 164 feet of ditch excavated within uplands that does not meet criteria as any category of water. The ditch does carry flow, but only in response to precipitation.

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: JD request submitted by Brett Davis, S&ME, Inc. August 21, 2020, and September 16, 2020.

This information is sufficient for purposes of this AJD.

Rationale: N/A.

Data sheets prepared by the Corps: N/A.

☒ Photographs: Aerial Photos and Site photos from JD request 8.20.2020.

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

☒ Previous Jurisdictional Determinations (AJDs or PJDs): AJDs SAC-2012-01021 and SAC-2012-01017.

Antecedent Precipitation Tool: N/A.

☒ USDA NRCS Soil Survey: "USDA-NRCA Soils Survey Exhibit 8.18.20 from JD request

☒ USFWS NWI maps: "USFWS NWI Exhibit" 8.18.20 from JD request

☒ USGS topographic maps: "USGS Topographic Map Exhibit" 8.20.20 from JD Request, James Island Quad 1:24,000

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	USACE Regulatory Mapper
State/Local/Tribal Sources	N/A.

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Other Sources	Lidar Exhibits 8.18.20 from JD request
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B. Typical year assessment(s): N/A.

- C. Additional comments to support AJD:** The 5.1 acre review area includes one jurisdictional water and a single excluded water as indicated in Section II A. The feature identified on the plat as "0.262 ACRES BELOW OCRM CRITICAL LINE" is subject to the ebb and flow of the tide and therefore meets the criteria of an (a)(1) water. The feature identified on the plat as 'EXCLUDED WATER (DITCH 1)' extends 164 feet along a portion of the northwest parcel boundary. Ditch 1 is an Excluded Water under (b)(5) as a ditch that does not meet criteria for (a)(1) or (a)(2) waters, and also does not meet criteria for (a)(4) waters that satisfy the conditions at (c)(1). These features are shown on the plat entitled "CRITICAL LINE EXHIBIT COOPER FOLLY ROAD TRACT CITY OF CHARLESTON CHARLESTON COUNTY, SOUTH CAROLINA" and dated August 7, 2020

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