



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): 29-JAN-2021 ORM Number: SAC-2007-01467
Associated JDs: AJD SAC-2007-01467 issued on August 1, 2013 and AJD SAC-2007-01467 issued on July 17, 2008.

Review Area Location¹:

State/Territory: SC City: Conway County: Horry County
Center Coordinates of Review Area: Latitude 33.80056 Longitude -79.133128

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 |

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

| (a)(4) Name | (a)(4) Size | (a)(4) Criteria | Rationale for (a)(4) Determination |
|--------------------------|-------------|---|---|
| Jurisdictional wetland 1 | 0.04 acres | (a)(4) Wetland abuts an (a)(1)-(a)(3) water | Jurisdictional Wetland 1 abuts the OHWM of an adjacent (a)(2) water (Big Cypress Swamp) identified |

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 and 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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| | | | |
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| | | | and documented following site visits conducted on July 13, 2013 and January 30, 2008, associated with previous jurisdictional determinations on this site (see memo dated July 16, 2013 in file). |
|--|--|--|---|

D. Excluded Waters or Features

Excluded waters (b)(1) – (b)(12)⁴:

| Exclusion Name | Exclusion Size | Exclusion ⁵ | Rationale for Exclusion Determination |
|------------------|----------------|---|---|
| Excluded Water 2 | 1.16 acres | (b)(1) Non-adjacent wetland | Excluded Water 2 (wetland) is a closed boundary polygon that does not abut and is not inundated by an (a)(1)-(3) water. Additionally, this wetland is physically separated from an (a)(1)-(3) water by multiple physical, man-made barriers (naturally occurring uplands, roads, ditch banks, etc.) The wetland does not have any physical or hydrological connection to a receiving tributary or any other jurisdictional system. Since, this wetland does not abut an (a)(1)-(3) water, is not inundated by an (a)(1)-(3) water and is physically separated by more than a single artificial barrier, excluded water 2 is non-jurisdictional. |
| Excluded Water 3 | 1.23 acres | (b)(1) Non-adjacent wetland | Excluded Water 3 (wetland) does not abut and is not inundated by an (a)(1)-(3) water. Additionally, this wetland is physically separated from an (a)(2) water by multiple physical, man-made barriers (residential lots, roads, etc.) and uplands. Excluded Water 3 is completely surrounded by uplands and lacks a direct surface connection to (a)(1)-(3) waters. The only documented connection between this wetland and an (a)(2) water is through a series of upland excavated non-jurisdictional drainage ditches. A ditch cannot render an otherwise isolated wetland an adjacent wetland unless the ditch itself is a tributary, which in this case it is not. |
| Excluded Water 4 | 1787 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) | Excluded Water 4 (Ditch) is partially located in uplands and partially excavated from wetlands within the review area but does not meet the criteria of a jurisdictional water based on the following: The feature is neither naturally occurring, a diversion of a tributary, nor constructed within the boundaries of an adjacent wetland and, therefore, does not meet the criteria of a tributary as outlined in (c)(12). Although the ditch in the review area does bisect the onsite wetland (excluded water 3), this specific wetland does not satisfy the requisite adjacency criteria to be an (a)(4) water itself and, therefore, the ditch also cannot satisfy requisite jurisdictional criteria as a tributary (a)(2) water |
| Excluded Water 5 | 880 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 | Excluded Water 5 (Ditch) is excavated from uplands within the review area and does not meet the criteria of a jurisdictional water based on the following: The feature is neither naturally occurring, a diversion of a |

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| | | (c)(1) | tributary, nor constructed within the boundaries of an adjacent wetland and, therefore, does not meet the criteria of a tributary as outlined in (c)(12). |
| Excluded Water 6 | 355 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) | Excluded Water 6 (Ditch) is excavated from uplands within the review area and does not meet the criteria of a jurisdictional water based on the following: The feature is neither naturally occurring, a diversion of a tributary, nor constructed within the boundaries of an adjacent wetland and, therefore, does not meet the criteria of a tributary as outlined in (c)(12). |
| Excluded Water 7 | 2585 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) | Excluded Water 7 (Ditch) is excavated from uplands within the review area and does not meet the criteria of a jurisdictional water based on the following: The feature is neither naturally occurring, a diversion of a tributary, nor constructed within the boundaries of an adjacent wetland and, therefore, does not meet the criteria of a tributary as outlined in (c)(12). |

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 September 4, 2020, submitted by the Brigman Company on behalf of Mr. Mikey Howell of Howell Lewis for the "Glenwood, LLC Property". This information is sufficient for purposes of this AJD.
- Data sheets prepared by the Corps: N/A
- Photographs: Site photos titled "Glenwood, LLC Property Site Photos," and dated July 22, 2020, submitted by the Brigman Company. Site photos associated with a Corps SV dated July 16, 2013 and titled, "SAC 2007-01467-4E / Fleming Tract." Aerial photographs provided by the Brigman Company, in the submittal dated September 4, 2020. USGS National Map 3D Elevation Program (3DEP) published August 13, 2020.
- Corps Site visit(s) conducted on: The Corps conducted two site visits on this tract in association with two previous jurisdictional determinations. Site visit dates were July 16, 2013 and January 30, 2008.
- Previous Jurisdictional Determinations (AJDs or PJDs): AJD SAC-2007-01467 issued on August 1, 2013 and AJD SAC-2007-01467 issued on July 17, 2008.
- Antecedent Precipitation Tool: Output from the APT indicated "wetter than normal" conditions See detailed discussion in Section III.B.
- USDA NRCS Soil Survey: NRCS Soil Survey Geographic Database (SSURGO) created 4 Apr 2019 and updated 26 Aug 2020. ESRI Map Service depicts the soil types Eulonia, Wahee, Echaw, and Hobcaw.
- USFWS NWI maps: USFWS NWI Map Service dated May 29, 2012, updated July 17, 2020. NWIs depict palustrine forest on site.

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- X** USGS topographic maps: USGS 7.5 Minute Index (Dongola Quad). Topographic map depicts vegetated uplands bisected by a transmission line corridor. Big Cypress Swamp is depicted to the south of the project area.

Other data sources used to aid in this determination:

| Data Source (select) | Name and/or date and other relevant information |
|----------------------------|---|
| USGS Sources | Topographic Maps, 3DEPElevation- Slope and 3DEPElevation – Hillshade /LiDAR overlays, National Hydrography Dataset. |
| USDA Sources | N/A. |
| NOAA Sources | N/A. |
| USACE Sources | SAC Regulatory Viewer Accessed on January 27, 2020 |
| State/Local/Tribal Sources | N/A. |
| Other Sources | N/A. |

- B. Typical year assessment(s):** Antecedent Precipitation Tool (APT) data for the typical year assessment was calculated based on the field collection date denoted on the wetland determination data forms (July 22, 2020). Output from the APT indicated “wetter than normal” conditions at the time of data collection by the agent (The Brigman Company) with a condition value of 18. APT Output with a condition value greater than 14 indicates “wetter than normal” conditions onsite and may not accurately represent typical year hydrologic conditions. For this assessment, a total 10 weather stations within an 18-mile radius were used. Although wetter than normal conditions were indicated by the APT, these findings would not affect the wetland boundary, location of the jurisdictional tributary, of their respective jurisdictional status.
- C. Additional comments to support AJD:** This form addresses a 29.25-acre site that contains 1 jurisdictional wetland that directly abuts the OHWM of an offsite (a)(2) water. Two previous determinations were conducted on this site. Ditches onsite, excluded waters 4-7, are man-made and non-jurisdictional. Excluded waters 2 and 3 are non-adjacent wetlands that do not have a direct hydrologic connection to an (a)(1) -(a)(3) water.

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