



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): **08-JAN-2021**

ORM Number: SAC-2019-01471

Associated JDs: N/A

Review Area Location¹:

State: South Carolina City: Boiling Springs County: Spartanburg County

Center Coordinates of Review Area: Latitude 34.998731 Longitude -81.998207

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
Jurisdictional Tributary 1 Standing Stone Branch	290 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Tributary 1 is shown as a blue line on the topo map and on the NWI map. The tributary was seen to have flowing water at the time of flagging and during the Corps site visits. According to the consultant, waters were clear in the tributary during flagging. The substrate was made up of cobble, gravel, sand, and mud. The following ordinary high water mark (OHWM) indicators were observed along the tributary: sediment deposition, destruction of terrestrial vegetation, wrack lines, bed and bank features, water staining, and the presence of litter and debris. It flows directly to Lawsons Fork Creek, which flows to the Pacolet River,

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.



**U.S. ARMY CORPS OF ENGINEERS
 REGULATORY PROGRAM
 APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
 NAVIGABLE WATERS PROTECTION RULE**

			which flows to the Broad River (TNW). Therefore, the Corps has determined the tributary to be an (a)(2) water and a water of the U.S.
--	--	--	---

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
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 1	1.255 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 water that meets (c)(6)	This pond is a closed boundary polygon that is constructed in uplands and is not an impoundment of a jurisdictional water and thus is an excluded water pursuant to (b)(8).
Excluded Water 2	130 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)	This feature is a ditch that has been constructed to convey water and is not an (a)(1) or (a)(2) water. In addition, this ditch was not constructed in a tributary or wetland and while it was observed with flowing water during wetter than normal conditions, it does not contribute surface water flow to a jurisdictional water in a typical year. The ditch flows to an open area that is not considered a water and spreads out to overland sheet flow. The ditch has no surface water connection to downstream waters and has not been constructed in a tributary of wetland, therefore this ditch is considered an excluded water pursuant to (b)(5).
Excluded Water 3	0.016 acre	(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 water that meets (c)(6)	This pond is a closed boundary polygon that is constructed in uplands and is not an impoundment of a jurisdictional water and thus is an excluded water pursuant to (b)(8).
Excluded Water 4	0.11 acre	(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 water that meets (c)(6)	This impoundment is a closed boundary polygon that is constructed on a non-jurisdictional water. This pond has no surface or visible connection to downstream waters. The feature that the impoundment was built on was not a jurisdictional water and thus the impoundment is an excluded water pursuant to (b)(8).
Excluded Water 5	615 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	This feature is shown as a drainage feature on the topo map and was seen to have flowing water at the time of flagging and during the Corps site visits. This feature flows toward the Jurisdictional Tributary 1 but did not

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

		that do not satisfy the conditions of (c)(1)	have a direct surface connection with an (a)(1) water due to past work on the site. The water flows into Excluded Water 4 but has no surface or visible connection to downstream waters. This feature has most likely been manipulated and straightened over the years from work on the site and work on the nearby roads. Thus, this feature is an excluded water pursuant to (b)(5).
Excluded Water 6	80 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)	This feature is shown as a drainage feature on the topo map and was seen to have flowing water at the time of flagging and during the Corps site visits. This feature flows toward the Jurisdictional Tributary 1 but did not have a direct surface connection with an (a)(1) water due to past work on the site. The water flows into Excluded Waters 4 & 5 but has no surface or visible connection to downstream waters. This feature has most likely been manipulated and straightened over the years from work on the site and work on the nearby roads. Thus, this feature is an excluded water pursuant to (b)(5).

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: F&R, Map "Waters of the US Sketch" revised December 1, 2020
This information is sufficient for purposes of this AJD.
Rationale: The Corps agrees with the conclusions of the submitted data sheets and submittal.
Data sheets prepared by the Corps:
- Photographs: Google Earth Aerial dated January 31, 2019; Photos 1-36 of 36 taken by USACE dated September 27, 2019; ; Photos 1-41 of 41 taken by USACE dated October 8, 2020; Photos 1-14 of 14 taken by the consultant dated June 30, 2019; USGS National Map 3D Elevation Program (3DEP) updated August 13, 2020
- Corps Site visit(s) conducted on: September 27, 2019; October 8, 2020
- Previous Jurisdictional Determinations (AJDs or PJDs): N/A
- Antecedent Precipitation Tool: See Section B below.
- USDA NRCS Soil Survey: NRCS / Soil Survey Geographic Database (SSURGO) Map Service, SSURGO 2020 Cecil-Bethlehem complex, Cecil, Chewacla, Urban Land-Cecil complex, Water
- USFWS NWI maps: USFWS NWI - Wetlands Raster REST Map Service
- USGS topographic maps: 1:24,000 / Wellford Quad

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS Topographic Map dated September 4, 2019
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	SAC Regulatory Viewer accessed October 15, 2020
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** Antecedent Precipitation Tool (APT) results for typical year determination were calculated for the date the site was visited by the consultant (8/10/2020) and the dates the site was visited by the Corps (9/27/2019, 10/8/2020). On September 27, 2019, the conditions were normal; however, on August 10, 2020, and October 8, 2020, the conditions were wetter than normal.
- C. Additional comments to support AJD:** The project area and waters within the project area have been manipulated from past work and work on the nearby roads around 2005. The project area includes 1 (a)(2) water and 3 (b)(5) ditches and 3 (b)(8) impoundments. Tributary 1 is a perennial (a)(2) water. Excluded Water 1 and Excluded Water 3 are ponds that were constructed in uplands and on non-jurisdictional waters. Excluded Water 4 is an impoundment that was constructed in a non-jurisdictional water that did not meet (c)(6) requirements. Excluded Water 2, Excluded Water 5, and Excluded Water 6 are ditches that do not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year. Since the excluded waters do not contribute surface water flow directly or indirectly to an (a)(1)-(3) water and are not constructed on (a)(1)-(3) waters, the Corps has determined the three ponds and three ditches to be excluded under the Navigable Waters Protection Rule.

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.