



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): 06-JAN-2021

ORM Number: SAC-2020-00021

Associated JDs: N/A

Review Area Location<sup>1</sup>: 465 acres including TMS#s #240-1, #242-4-1, and #242-5

State: SC City: Newberry County: Newberry County

Center Coordinates of Review Area: Latitude 34.242153 Longitude -81.681375

**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)<sup>2</sup>**

§ 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)<sup>3</sup>

(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	56 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Tributary 1 is depicted as a dashed blue line on the topographic map and is clearly defined on the 3DEP LiDAR data. This tributary flows from Jurisdictional Impoundment 2 and flows off-site into an unnamed tributary to Bush River which flows into Bush River and then into Lake Murray, a Section 10 Waterbody. The NWI maps this tributary as an intermittent tributary. Based on this information, Jurisdictional Tributary 1 was determined to be an (a)(2) water.
Jurisdictional Tributary 2	246 feet	(a)(2) Intermittent tributary contributes surface water flow	Jurisdictional Tributary 2 is depicted as a dashed blue line on the topographic map and is

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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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		directly or indirectly to an (a)(1) water in a typical year	clearly defined on the 3DEP LiDAR data. This is a first order tributary that begins in the northeast corner of the site and flows off-site into an unnamed tributary to Bush River which flows into Bush River and then into Lake Murray, a Section 10 Waterbody. The NWI maps this tributary as an intermittent tributary. Based on this information, Jurisdictional Tributary 2 was determined to be an (a)(2) water.
Jurisdictional Tributary 3	32 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Tributary 3 is depicted as a dashed blue line on the topographic map and is clearly defined on the 3DEP LiDAR data. This is a first order tributary that begins in the northeast corner of the site and flows into Jurisdictional Tributary 2 which flows off-site into an unnamed tributary to Bush River which flows into Bush River and then into Lake Murray, a Section 10 Waterbody. The NWI maps this tributary as an intermittent tributary. Based on this information, Jurisdictional Tributary 3 was determined to be an (a)(2) water.
Jurisdictional Tributary 4	27 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Tributary 4 is depicted as a dashed blue line on the topographic map and is clearly defined on the 3DEP LiDAR data. This tributary flows from Jurisdictional Impoundment 3 and then flows off-site into an unnamed tributary to Bush River which flows into Bush River and then into Lake Murray, a Section 10 Waterbody. The NWI maps this tributary as an intermittent tributary. Information provided by the consultant, including photographs, indicate that the tributary is perennial. Based on this information, Jurisdictional Tributary 4 was determined to be an (a)(2) water.
Jurisdictional Tributary 5	1848 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Tributary 5 is depicted as a dashed blue line on the topographic map and is clearly defined on the 3DEP LiDAR data. This tributary flows into an off-site impoundment which flows into an unnamed tributary of Beaverdam Creek which flows into Beaverdam Creek and then into Lake Murray, a Section 10 Waterbody. The NWI maps this tributary as an intermittent and perennial tributary. The NWI maps this tributary as an intermittent tributary. Information provided by the consultant, including photographs, indicate that the tributary is perennial. Based on this information, Jurisdictional Tributary 5 was determined to be an (a)(2) water.

**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
Jurisdictional Impoundment 3	3.76 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Impoundment 3 is an open water impoundment of Jurisdictional Tributary 4, an (a)(2) water that flows to an unnamed tributary to Bush River.

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<sup>5</sup> 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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Jurisdictional Impoundment 2	8.11 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Impoundment 2 is an open water impoundment of Jurisdictional Tributary 1, an (a)(2) water that flows to an unnamed tributary to Bush River.
Jurisdictional Impoundment 4	1.2 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Impoundment 4 is an open water impoundment of Jurisdictional Tributary 5, an (a)(2) water that flows to an unnamed tributary to Beaverdam Creek.

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

<b>(a)(4) Name</b>	<b>(a)(4) Size</b>	<b>(a)(4) Criteria</b>	<b>Rationale for (a)(4) Determination</b>
Jurisdictional Wetland 2	0.01 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland 2 is abutting and contiguous with the (a)(3) water Jurisdictional Impoundment 2 which is an impoundment of the (a)(2) water Jurisdictional Tributary 1.
Jurisdictional Wetland 10	0.04 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland 10 is abutting and contiguous with the (a)(2) water Jurisdictional Tributary 5.
Jurisdictional Wetland 11	3.61 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland 11 is abutting and contiguous with the (a)(2) water Jurisdictional Tributary 5.
Jurisdictional Wetland 12	1.11 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland 12 is part of a larger wetland system that continues offsite to the south and would abut the downstream unnamed tributary (a)(2) to Beaverdam Creek (Jurisdictional Tributary 5).
Jurisdictional Wetland 3	0.01 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland 3 is abutting and contiguous with the (a)(3) water Jurisdictional Impoundment 2 which flows directly into the (a)(2) water Jurisdictional Tributary 1. The wetland also abuts Jurisdictional Impoundment 2, an (a)(3) water.
Jurisdictional Wetland 4	0.21 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland 4 is abutting and contiguous with the (a)(3) water Jurisdictional Impoundment 2 which is an impoundment of the (a)(2) water Jurisdictional Tributary 1.
Jurisdictional Wetland 5	0.63 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland 5 is abutting and contiguous with the (a)(3) water Jurisdictional Impoundment 2 which is an impoundment of the (a)(2) water Jurisdictional Tributary 1.
Jurisdictional Wetland 8	0.07 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland 8 is abutting and contiguous with the (a)(2) water Jurisdictional Tributary 3.

**D. Excluded Waters or Features**

**Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:**

<b>Exclusion Name</b>	<b>Exclusion Size</b>	<b>Exclusion<sup>5</sup></b>	<b>Rationale for Exclusion Determination</b>
Excluded Water Pond 1	0.32 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)	Excluded Water Pond 1 is a pond located within the review area and was determined to be wholly excavated from uplands, does not contribute flow to an (a)(1-3) water, and does not meet the criteria of a jurisdictional feature as identified in paragraph (c)(6).

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Excluded Water Pond 2	0.18 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)	Excluded Water Pond 2 is a pond located within the review area and was determined to be wholly excavated from uplands, does not contribute flow to an (a)(1-3) water, and does not meet the criteria of a jurisdictional feature as identified in paragraph (c)(6).
Excluded Water Pond 3	0.17 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)	Excluded Water Pond 3 is a pond located within the review area and was determined to be wholly excavated from uplands, does not contribute flow to an (a)(1-3) water, and does not meet the criteria of a jurisdictional feature as identified in paragraph (c)(6).
Excluded Water Wetland 1	0.32 acres	(b)(1) Non-adjacent wetland	Excluded Water Wetland 1 is a closed polygon wetland that is not contiguous or directly abutting an (a)(1)-(a)(3) water. In addition, this wetland does not meet any of the other (a)(4) criteria for adjacency and thus is an excluded water pursuant to (b)(1).
Excluded Water Wetland 6	0.31 acres	(b)(1) Non-adjacent wetland	Excluded Water Wetland 6 is a closed polygon wetland that is not contiguous or directly abutting an (a)(1)-(a)(3) water. In addition, this wetland does not meet any of the other (a)(4) criteria for adjacency and thus is an excluded water pursuant to (b)(1).
Excluded Water Wetland 7	0.02 acres	(b)(1) Non-adjacent wetland	Excluded Water Wetland 7 is a closed polygon wetland that is not contiguous or directly abutting an (a)(1)-(a)(3) water. In addition, this wetland does not meet any of the other (a)(4) criteria for adjacency and thus is an excluded water pursuant to (b)(1).
Excluded Water Wetland 9	0.05 acres	(b)(1) Non-adjacent wetland	Excluded Water Wetland 9 is a closed polygon wetland that is not contiguous or directly abutting an (a)(1)-(a)(3) water. In addition, this wetland does not meet any of the other (a)(4) criteria for adjacency and thus is an excluded water pursuant to (b)(1).

### 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 Package submitted by SM&E.*

This information is sufficient for purposes of this AJD.

Rationale: *The wetland data forms and information submitted by the agent are considered to be a reasonable representation of site conditions at the time of collection and are sufficient for purposes of this AJD.*

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

☒ Photographs: *Photographs submitted by S&ME in the submittal dated December 17, 2019 and ESRI World Imagery – January 2019*

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

☐ Previous Jurisdictional Determinations (AJDs or PJDs): *N/A*

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- ☒ Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- ☒ USDA NRCS Soil Survey: NRCS Web Soil Survey as submitted by the consultant: Cecil, Hard Labor, Helena, Winnsboro, Water
- ☒ USFWS NWI maps: USFWS NWI Mapper 2019 as submitted by the consultant: R5UBH, R4SBC, PUBHh, PEM1C, PEM1A, PUBHx, PEM1Fh.
- ☒ USGS topographic maps: USGS 1:24K Quad, Silverstreet

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	3D Elevation Program (3DEP) LiDAR Map Service
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** The 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 (November 11, 2019). Output from the APT indicated “wetter than normal” conditions at the time of data collection by the agent (S&ME) with a condition value of 15. 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 a 20-mile radius were used. Although wetter than normal conditions were indicated by the APT, these findings would not affect the wetland boundaries, location of the jurisdictional tributaries or their respective jurisdictional status.
- C. Additional comments to support AJD:** The 465-acre project site contains 16 jurisdictional waters, including five jurisdictional (a)(2) tributaries, eight jurisdictional (a)(4) wetlands which all directly abut the jurisdictional tributaries and three jurisdictional (a)(3) impoundments. This site also contains seven excluded waters, including three non-jurisdictional ponds that were determined to be (a)(8) excluded waters that were constructed in uplands and four non-jurisdictional (b)(1) wetlands. Based on a review of the aeriels, topographic map, soil survey, NWIs, and information submitted by the agent, the excluded wetlands were determined to be isolated, depressional wetlands with no connections to (a)(1) – (a)(3) waters.

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