



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): 20-JUL-2020

ORM Number: SAC-2017-00820 Pine Lakes Reserve

Associated JDs: SAC 2006-01678/AJD Letter issued on 9/14/2011

Review Area Location¹:

State/Territory: SC City: North Myrtle Beach County/Parish/Borough: Horry County

Center Coordinates of Review Area: Latitude 33.734875 Longitude -78.848675

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
N/A	N/A	N/A	N/A

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.

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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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Ditch 1	2160 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 not naturally occurring, a diversion of a tributary, or constructed within the boundaries of an adjacent wetland. Flow within this feature appears to be the result of stormwater drainage from surrounding development. This ditch is constructed in an area determined to be uplands by this approved jurisdictional determination and two previous approved jurisdictional determinations.
Ditch 2	610 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 not naturally occurring, a diversion of a tributary, or constructed within the boundaries of an adjacent wetland. Flow within this feature appears to be the result of stormwater drainage from surrounding development. This ditch is constructed in an area determined to be uplands by this approved jurisdictional determination and two previous approved jurisdictional determinations.
Pond 1	2.7 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 constructed in an area determined to be uplands by this approved jurisdictional determination and two previous approved jurisdictional determinations. Additionally, no portion of the pond intersects the ordinary high water mark or the high tide line of a jurisdictional water. This feature is neither naturally occurring nor an impoundment of a jurisdictional feature. It is a man-made ornamental/stormwater pond associated with the construction of a residential neighborhood. This feature was determined to have been constructed entirely in uplands. This feature would also meet exclusion (b)(10) for stormwater storage features constructed entirely in uplands.
Pond 2	6.95 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 constructed in an area determined to be uplands by this approved jurisdictional determination and two previous approved jurisdictional determinations. Additionally, no portion of the pond intersects the ordinary high water mark or the high tide line of a jurisdictional water. This feature is neither naturally occurring nor an impoundment of a jurisdictional feature. It is a man-made ornamental/stormwater pond associated with the construction of a residential neighborhood. This feature was determined to have been constructed entirely in uplands. This feature would also meet exclusion (b)(10) for stormwater storage features constructed entirely in uplands.

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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.

X Information submitted by, or on behalf of, the applicant/consultant: Data sheets prepared by the Booth Company dated May 18, 2017. Sheets 1 – 3 of 3 of the survey plat entitled “WETLAND SURVEY / OF 4 PARCELS BEING / THE LANDS OF / PINE LAKES / DEVELOPMENT CO, LLC / TOTALING 129.28 AC. / CITY OF MYRTLE BEACH / HORRY COUNTY, SOUTH CAROLINA / prepared for / LENNAR CAROLINA, LLC” and dated July 15, 2020, prepared by Thomas and Hutton Engineering Company.
This information is sufficient for purposes of this AJD.

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

X Photographs: *Aerial and other*: Site photos submitted by the Booth Company from site visits conducted on May 18, 2017 and June 7, 2017, Site photos submitted by S&ME, Inc. from a site visit conducted on June 30, 2020, Horry County Aerial Index 99:11226:50, SCDNR 2006, Google Earth 2016

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

X Previous Jurisdictional Determinations (AJDs or PJDs): SAC 2006-01678/AJD Letter issued on 9/14/2011 and SAC 2017-00820/AJD Letter issued on August 2, 2017

_____ Antecedent Precipitation Tool: provide detailed discussion in Section III.B.

X USDA NRCS Soil Survey: NRCS SSURGO Map Service accessed on July 17, 2020, depicts the project area as being comprised of a combination of 3.9 % Centenary fine sand, 8.4% Echaw sand, and 87.7 % Leon fine sand. Leon fine sand which makes up the majority of the project area is poorly drained hydric soil.

X USFWS NWI maps: **USFWS NWI - Wetlands Raster REST service** was accessed on July 17, 2020 and depicted PFO4B; NWIs depict the project area as containing saturated palustrine forest adjacent to a riverine feature in the southwestern portion. Site photos and data sheet provided by the agent revealed that soils at this location contained greater than 30% uncoated sand grains and lacked indicators of hydrology. The riverine feature depicted on the NWIs was determined to be a man-made feature.

X USGS topographic maps: USGS 7.5 minute Quad Ocean Forest Quad; The USGS topographic survey information within Ocean Forest Quad depicts the project area as forested uplands. A solid blue line feature bisects the project area. This feature was determined to be a man made feature.

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS 3D Elevation Program (3DEP) Map Service
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	USACE SAC Regulatory Viewer accessed July 17, 2020

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State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s):

This determination is a re-assessment of Approved Jurisdictional Determination SAC 2017-00820, issued on August 2, 2017. Antecedent Precipitation Tool (APT) data for typical year determination was calculated based on field collection dated denoted on wetland delineation data forms, prepared by original requestor (The Booth Company) dated May 18, 2017, and on June 30, 2020 when a follow up site visit was conducted by an agent (S&ME, Inc.) requesting re-assessment of features previously determined to be jurisdictional. Output from the APT indicated “drier than normal” conditions (value of 8) during the original delineation and “wetter than normal” conditions (value of 17) at the time of the follow up site visit. For this assessment, a total of 10 weather stations within a 20 mile radius were used. The results of the APT indicate site visits were conducted outside of conditions considered by the Corps to be a “typical year”, however this would not bring previously determined upland status or lack of observed flow into question. Uplands lacked hydric soils indicators, in addition to hydrology indicators at the time of the original site visit, therefore, did not meet the criteria for the identification of a wetland regardless of hydrology. Additionally, if flow in the ditches is absent during wetter than normal conditions it can reasonably be assumed that during normal conditions, or a “typical year,” flow would still be absent.

C. Additional comments to support AJD: This form addresses a 129.28 acre tract that contains only non-jurisdictional waters. In two previous jurisdictional determinations this site was determined to consist of uplands and a jurisdictional tributary. On June 18, 2020, the agent for the applicant requested that the tributary be re-evaluated under the new definition of Waters of the United States in Corps regulations at 33 C.F.R. §328.3, as revised by the Navigable Waters Protection Rule: “Definition of Waters of the United States,” 85 Fed. Reg. 22250 (April 21, 2020), when it became effective on June 22, 2020. A review in accordance with 85 Fed. Reg. 22250 resulted in a determination that the feature in question was an excluded water (b)(5). Additionally, the above referenced tract contains 0.66 acre of land protected by Restrictive Covenants. This 0.66 acre depicted as “Protected Area” on the above referenced plat was not reviewed and therefore is not included in this determination.

Located onsite are two artificial ponds (9.65 acres total) wholly constructed in uplands which were determined to be excluded (b)(8) waters. In addition, two man-made ditches, excavated out of uplands (2,770 l.f. total), are located on site. These features were determined to be excluded (b)(5)waters.

Data sheets and site photos submitted by the agent indicate the presence of non-hydric soils, the absence of hydrology indicators, and a man-made ditch containing stagnant water. In an email dated

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June 30, 2020, the agent stated that a site visit conducted on the same day revealed no flow in either of the non-jurisdictional ditches and photo documentation of the stagnant water was provided

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