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): July 29, 2021
ORM Number: SAC-2020-01416
Associated JDs: N/A
Review Area Location[1]:
State: SC City: Fort Mill County: Lancaster
Center Coordinates of Review Area: Latitude 34.952 Longitude -80.8298

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	

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Jurisdictional Tributary A	280 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Tributary (JT)-A is a naturally occurring unnamed intermittent tributary, visible on LiDAR data, that flows directly into the (a)(3) JP-BB (described below). Jurisdictional Pond (JP)-BB discharges directly into the (a)(2) JT-T (described below), then flows into the (a)(2) Sixmile Creek (described below), and ultimately into the TNW Catawba River. JT-A has a well-developed OHWM, bed and banks, a well-defined channel, and had a series of standing water pools and shallow subsurface/hyporheic water in the channel sediment at the time of the flagging/Corps site visit. Based on site evaluation and review of information

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[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.

			submitted by applicant, it has been determined that the tributary flows continuously during certain times of the year and more than in direct response to precipitation. JT-A satisfies the flow conditions and criteria included in the tributary definition (c)(12) of the NWPR. Therefore, the Corps has determined the tributary to be an (a)(2) water of the U.S.
Jurisdictional Tributary D	217 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	JT-D is a naturally occurring unnamed intermittent tributary, visible on LiDAR data, that flows to Sixmile Creek (described below), and ultimately to the TNW Catawba River. JT-D has a well-developed OHWM, bed and banks, a well-defined channel, and had a series standing water pools and shallow subsurface/hyporheic water in the channel sediment at the time of the flagging/Corps site visits. Based on site evaluation and review of information submitted by applicant, it has been determined that the tributary flows continuously during certain times of the year and more than in direct response to precipitation. JT-D satisfies the flow conditions and criteria included in the (c)(12) tributary definition of the NWPR. Therefore, JT-D has been determined to be an (a)(2) water of the U.S.
Jurisdictional Tributary E	1128 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	JT-E is a naturally occurring unnamed perennial tributary, visible on LiDAR data, that flows directly into Sixmile Creek (described below), and ultimately to the TNW Catawba River. This tributary is not mapped by USGS, or the NWI, however during site visits the tributary exhibited strong flow, with associated channel development, sediment sorting and other indications of perennial flow. JT-E satisfies the flow conditions and criteria included in the (c)(12) tributary definition of the NWPR. Therefore, JT-E has been determined to be an (a)(2) water of the U.S.
Jurisdictional Tributary F	659 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	JT-F is the upstream intermittent section of JT-E (described above), it is a naturally occurring unnamed intermittent tributary, visible on LiDAR data, which flows to Sixmile Creek (described below), and ultimately to the TNW Catawba River. JT-F has a well-developed OHWM, bed and banks, a well-defined channel, and had a series standing water pools and shallow subsurface/hyporheic water in the channel sediment at the time of the flagging/Corps site visits. Based on site evaluation and review of information submitted by applicant, it has been determined that the tributary flows continuously during certain times of the year and more than in direct response to precipitation. JT-F satisfies the flow conditions and criteria included in the (c)(12) tributary definition of the NWPR. Therefore, JT-F has been determined to be an (a)(2) water of the U.S.
Jurisdictional Tributary K	613 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1)	JT-K is a naturally occurring unnamed intermittent tributary mapped by USGS as a blue line, indicating potential perennial flow, which continues off-site directly

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		water in a typical year	into Sixmile Creek (described below), and ultimately to the TNW Catawba River. JT-K has a well-developed OHWM, bed and banks, a well-defined channel, and had a series standing water pools and shallow subsurface/hyporheic water in the channel sediment at the time of the flagging/Corps site visits. Based on site evaluation and review of information submitted by applicant, it has been determined that the tributary flows continuously during certain times of the year and more than in direct response to precipitation. JT-K satisfies the flow conditions and criteria included in the (c)(12) tributary definition of the NWPR. Therefore, JT-K has been determined to be an (a)(2) water of the U.S.
Jurisdictional Tributary L	376 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	JT-L is a naturally occurring unnamed intermittent tributary, visible on LiDAR data, which contributes surface water flow in a typical year through a channelized non-jurisdictional ephemeral drainage feature to the down-stream (a)(2) Sixmile Creek (described below), and ultimately to the TNW Catawba River. The ephemeral section of JT-L lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation). The ephemeral section exhibited no clear and continuous OHWM, plants were growing within the streambed, however the streambed was cleared of leaf litter and debris indicating at least ephemeral flow. JT-L has a well-developed OHWM, bed and banks, a well-defined channel, and had a series standing water pools and shallow subsurface/hyporheic water in the channel sediment at the time of the flagging/Corps site visits. Based on site evaluation and review of information submitted by applicant, it has been determined that the tributary flows continuously during certain times of the year and more than in direct response to precipitation. JT-L satisfies the flow conditions and criteria included in the (c)(12) tributary definition of the NWPR. Therefore, JT-L has been determined to be an (a)(2) water of the U.S.
Jurisdictional Tributary S	90 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	JT-S is a naturally occurring unnamed intermittent tributary, visible on LiDAR data, that contributes surface water flow to the downstream jurisdictional (a)(2) JT-K (described above) in a typical year. Flow is contributed through the downstream (a)(4) Jurisdictional Wetland (JW)-R (described below), then through an artificial structure (the breached dam), then through non-jurisdictional drainage features (area directly below dam is highly disturbed by sediments from the breached dam and did not meet the definition of either (a)(2) or (a)(4)), then to JT-K, which flows to Sixmile Creek (described below). JT-S has a well-developed OHWM, bed and banks, a well-defined channel, and had a series standing water pools and shallow subsurface/hyporheic water in the channel sediment at

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[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.
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			the time of the flagging/Corps site visits. Based on site evaluation and review of information submitted by applicant, it has been determined that the tributary flows continuously during certain times of the year and more than in direct response to precipitation. JT-S satisfies the flow conditions and criteria included in the (c)(12) tributary definition of the NWPR. Therefore, JT-S has been determined to be an (a)(2) water of the U.S.
Jurisdictional Tributary Sixmile Creek	5147 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Sixmile Creek is a naturally occurring named tributary mapped by USGS as a solid blue line, indicating potential perennial flow. During site visits the tributary exhibited strong flow, with associated channel development, sediment sorting and other indications of perennial flow. Sixmile Creek serves as the main tributary on the site and into which all the jurisdictional aquatic resources flow. Sixmile Creek is mapped by the USGS flowing south, off property, under multiple roads, through multiple culverts, directly into Twelvemile Creek an (a)(2) named tributary, and ultimately flowing into TNW Catawba River. Sixmile Creek satisfies the flow conditions and criteria included in the (c)(12) tributary definition of the NWPR. Based on best available imagery via Google Earth Pro dated March 30, 2018) and APT data generated for March 30, 2018, water is visible both upstream and downstream of the all downstream culverts leading to the Catawba River during normal conditions. Therefore, Sixmile Creek has been determined to be an (a)(2) water of the U.S.
Jurisdictional Tributary T	290 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	JT-T is a naturally occurring unnamed intermittent tributary, visible on LiDAR data, that flows into which flows to Sixmile Creek (described above), and ultimately to the TNW Catawba River. JT-T has a well-developed OHWM, bed and banks, a well-defined channel, and had a series standing water pools and shallow subsurface/hyporheic water in the channel sediment at the time of the flagging/Corps site visits. Based on site evaluation and review of information submitted by applicant, it has been determined that the tributary flows continuously during certain times of the year and more than in direct response to precipitation. JT-T satisfies the flow conditions and criteria included in the (c)(12) tributary definition of the NWPR. Therefore, JT-T has been determined to be an (a)(2) 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
Jurisdictional Pond BB	0.873 acre	(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	JP-BB is an impoundment of an (a)(2) tributary JT-A and JT-T (described above). JP-BB receives flow from JT-A and discharges surface water flow during a typical year directly into JT-T that provides a direct continuous hydrologic connection to the (a)(2) Sixmile Creek

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			(described above), and ultimately the TNW Catawba River. Therefore, the Corps has determined the impoundment to be an (a)(3) water of the U.S.

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

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Jurisdictional Wetland B	0.5 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland JW-B is contiguous and directly abutting (a)(2) tributary JT-T (described above). On this basis, wetland JW-B is an (a)(4) water.
Jurisdictional Wetland G	0.021 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland JW-G is contiguous and directly abutting (a)(2) tributary JT-F (described above). On this basis, wetland JW-G is an (a)(4) water.
Jurisdictional Wetland I	1.522 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland JW-I is contiguous and directly abutting (a)(2) Tributary Sixmile Creek (described above). On this basis, wetland JW-I is an (a)(4) water.
Jurisdictional Wetland M	0.005 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland JW-M is contiguous and directly abutting (a)(2) Tributary Sixmile Creek (described above). On this basis, wetland JW-M is an (a)(4) water.
Jurisdictional Wetland N	0.026 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland JW-N is contiguous and directly abutting (a)(2) tributary JT-E (described above). On this basis, wetland JW-N is an (a)(4) water.
Jurisdictional Wetland O	0.331 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland JW-O is contiguous and directly abutting (a)(2) Tributary Sixmile Creek (described above). On this basis, wetland JW-O is an (a)(4) water.
Jurisdictional Wetland P	0.034 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland JW-P is contiguous and directly abutting (a)(2) tributary JT-K (described above). On this basis, wetland JW-P is an (a)(4) water.
Jurisdictional Wetland Q	0.009 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland JW-Q is contiguous and directly abutting (a)(2) tributary JT-K (described above). On this basis, wetland JW-Q is an (a)(4) water.
Jurisdictional Wetland R	0.098 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland JW-R is contiguous and directly abutting (a)(2) tributary JT-S (described above). On this basis, wetland JW-R is an (a)(4) water.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))[4]:

Exclusion Name	Exclusion Size	Exclusion[5]	Rationale for Exclusion Determination
Excluded Water (Pond CC)	0.406 acre	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year	Pond CC does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year. The pond appears to collect runoff from the surrounding uplands. Based on observations made during flagging/ Corps site visit, and NWI mapping (which depicts a solid blue-line indicating the possible presence of a tributary) that Pond CC may have been constructed on an (a)(2) water, however, no evidence has been observed by the Corps which demonstrates that Pond CC contributes surface water flow to a water identified in paragraph (a)(1) in a typical year either directly or indirectly through one or more waters identified in

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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.

			paragraph (a)(2), (a)(3), or (a)(4) or through channelized non-jurisdictional features. Therefore, the Corps has determined the Pond CC to be a (b)(1) excluded water.
Excluded Water (Pond HH)	0.208 acre	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year	Pond HH does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year. The pond appears to collect runoff from the surrounding uplands. Based on observations made during flagging/ Corps site visit, Pond HH may have been constructed on an (a)(4) water (JW-G), however, no evidence has been observed by the Corps which demonstrates that Pond HH contributes surface water flow to a water identified in paragraph (a)(1) in a typical year either directly or indirectly through one or more waters identified in paragraph (a)(2), (a)(3), or (a)(4) or through channelized non-jurisdictional features. Therefore, the Corps has determined the Pond HH to be a (b)(1) excluded water.
Excluded Water (Wetland C)	0.1 acre	(b)(1) Non-adjacent wetland	Wetland C is a closed boundary polygon surrounding Pond CC (described above) 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 H)	0.05 acre	(b)(1) Non-adjacent wetland	Wetland H is a closed boundary polygon surrounding Pond HH (described above) 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 NJF-1	242 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NJF-1 is a downstream ephemeral section of JT-L (described above). This ephemeral section of JT-L (NJF-1) lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation). The ephemeral section exhibited no clear and continuous OHWM, plants were growing within the streambed, however the streambed was cleared of leaf litter and debris indicating at least ephemeral flow. NJF-1 does not meet the (c)(12) definition of tributary and thus has been determined to be a (b)(3) ephemeral feature.

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: **Jurisdictional Determination Request dated October 5, 2020.**
This information *is* sufficient for purposes of this AJD.
Rationale: **The wetland data forms, and additional information submitted by the agent**

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are 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:
_X_ Photographs: **Photos 1-6 of 6 provided by the consultant. Corps site visit photos dated December 9, 2020. Aerial Provided by consultant titled "Aerial Map" dated June 9, 2020.**
_X_ Corps Site visit(s) conducted on: **December 9, 2020**
___ Previous Jurisdictional Determinations (AJDs or PJDs): *NA*
_X_ Antecedent Precipitation Tool: *Detailed discussion in Section III.B.*
_X_ USDA NRCS Soil Survey: **Provided by consultant titled "SOIL SURVEY MANUSCRIPT MAP" dated June 9, 2020.**
_X_ USFWS NWI maps: **USFWS NWI Map Service Map**
_X_ USGS topographic maps: **Provided by consultant titled "USGS MAP" dated June 9, 2020.**

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	SAC Regulatory Viewer
State/Local/Tribal Sources	N/A.
Other Sources	Google Earth Pro aerial imagery dated 3/30/2018

B. Typical year assessment(s): The Antecedent Precipitation Tool (APT) data for the typical year assessment was calculated based on the field collection dates denoted on the wetland determination data forms and submitted photos (June 4, 2020, August 28, 2020), and the date of the Corps site visit (December 9, 2020). Output from the APT indicated "wetter than normal" conditions at the time of data collection by the agent in both June and August 2020 with a condition values of 16 and 15, "wetter than normal" conditions at the time of data collection by the agent and Corps site visit in December 2020 with a condition value of 18. APT Outputs with condition values greater than or equal to 15 indicates "wetter than normal" conditions. Results of the APT indicate the site has only been observed by the agents/Corps during "wetter than normal" conditions, however professional judgement and review of the best available information cited/discussed above, has led the Corps to determine the boundaries of the aquatic resources as documented here are an accurate representation of the extent and boundaries that would be observed within a typical year.
ATP data was also generated for March 30, 2018 to support assessment of off-site culvert function for Sixmile Creek as it flows to the Catawba River. Output from the APT indicated "Normal" conditions with a condition value of 11.

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[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.

C. Additional comments to support AJD: This form documents an approximately 174-acre site that includes two perennial (a)(2) waters, seven intermittent (a)(2) waters, one impoundment (a)(3) water, and nine wetland (a)(4) waters, that were determined to be waters of the United States.

The site also includes four (b)(1), and one (b)(3) excluded waters, that were determined not to be waters of the United States.

[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.