



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 6, 2021

ORM Number: SAC-2020-01659

Associated JDs: N/A

Review Area Location¹:

State: SC City: Goose Creek County: Berkeley County

Center Coordinates of Review Area: Latitude 32.993233 Longitude -80.034314

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
T1a	710 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	T1a is a perennial tributary that flows offsite and ultimately discharges into Foster Creek, an (a)(1) traditional navigable water. Based on the information reviewed and the site visit, this tributary flows continuously all year, every year. On this basis, T1a meets the criteria set forth in (c)(12) as a tributary and thus an (a)(2) water. The off-site tributary is divided by multiple artificial structures (roads) along its flow path to Foster Creek. However, culverts located within these structures are active at least once in a typical year and provide a direct hydrologic connection. Please see Sections III B and C for more information.

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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T1b	1708 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	T1b is the same perennial tributary as T1a that flows offsite and ultimately discharges into Foster Creek, an (a)(1) traditional navigable water. Based on the information reviewed and the site visit, this tributary flows continuously all year, every year. On this basis, T1b meets the criteria set forth in (c)(12) as a tributary and thus an (a)(2) water. The off-site tributary is divided by multiple artificial structures (roads) along its flow path to Foster Creek. However, culverts located within these structures are active at least once in a typical year and provide a direct hydrologic connection. Please see Sections III B and C for more information.
T2	55 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	T2 is an intermittent tributary that flows directly into T1 and ultimately discharges into Foster Creek, an (a)(1) traditional navigable water. Based on the information reviewed and the site visit, this tributary flows continuously for the entire wet season when the groundwater table is elevated. On this basis, T2 meets the criteria set forth in (c)(12) as a tributary and thus an (a)(2) water. The off-site tributary is divided by multiple artificial structures (roads) along its flow path to Foster Creek. However, culverts located within these structures are active at least once in a typical year and provide a direct hydrologic connection. Please see Sections III B and C for more information.
T3	330 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	T3 is a perennial tributary that flows directly into T1 and ultimately discharges into Foster Creek, an (a)(1) traditional navigable water. Based on the information reviewed and the site visit, this tributary flows continuously all year, every year. On this basis, T3 meets the criteria set forth in (c)(12) as a tributary and thus an (a)(2) water. The off-site tributary is divided by multiple artificial structures (roads) along its flow path to Foster Creek. However, culverts located within these structures are active at least once in a typical year and provide a direct hydrologic connection. Please see Sections III B and C for more information.

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
W1	1.1 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	W1 continues off-site to the north where the wetland is contiguous with and directly abuts the ordinary high water mark of the off-site portion of T1, an (a)(2) perennial tributary.

D. Excluded Waters or Features

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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Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
T4	1064 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)	T4 is a ditch that is excavated wholly in uplands and does not meet criteria as any category of water. This ditch does carry flow but does so only in response to precipitation.
W2	0.05 acres	(b)(1) Non-adjacent wetland	This wetland is a closed boundary polygon 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: AJD Request packed from ECS provided on January 6, 2021.
This information is sufficient for purposes of this AJD.
Rationale: N/A
- Data sheets prepared by the Corps: N/A
- Photographs: Aerial and site photographs provided by the applicant.
- Corps Site visit(s) conducted on: June 25, 2021
- Previous Jurisdictional Determinations (AJDs or PJDs): N/A
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: NRCS Berkeley County dated 1980
- USFWS NWI maps: NWI Online mapping
- USGS topographic maps: Ladson Quad. 1980 and Mount Holly Quad. 1979

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
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): Antecedent Precipitation Tool (APT) data for typical year determination were calculated for the date photographic documentation was collected at the site, December 20, 2020. The APT data were calculated to determine if the features provide direct hydrologic connections during typical year conditions. According to output from the APT, conditions for this date exhibited “Drier” conditions.

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- C. Additional comments to support AJD:** The on-site jurisdictional wetland continues offsite to the north and is part of a larger wetland and tributary complex. Based on a review of offsite information including Lidar, hillshade and aerial photographs, as well as photographs taken at publicly accessible points downstream of the project review area, the wetland and tributary complex flow east then directly into Foster Creek. The wetland and tributary complex exhibit a direct hydrologic surface connection between the on-site jurisdictional wetland and Foster Creek via culverts under multiple roads. However, the tributary continues to satisfy the flow conditions and criteria included in the tributary definition (c)(12) of the NWPR.

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