



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 21, 2021

ORM Number: SAC-2020-01694

Associated JDs: N/A

Review Area Location<sup>1</sup>:

State: SC City: County: Charleston County

Center Coordinates of Review Area: Latitude 32.525871 Longitude -80.302316

**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 or describe rationale.
- 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
Critical Area 1	2.7 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	The tidal wetlands labeled as “Critical Area 1” are subject to the ebb and flood of the tide of the Fishing Creek, which is a Section 10 water. Therefore, the Tidal Wetlands are an (a)(1) water.

**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
Critical Area 1	2.7 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	The tidal wetlands labeled as “Critical Area 1” are subject to the ebb and flood of the tide of the Fishing Creek, which is a Section 10 water. Therefore, the Tidal Wetlands are an (a)(1) water.

**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):**

<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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(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))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Non-jurisdictional Ditch 1	1311 feet	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) sub-categories	Non-jurisdictional Ditch 1 was excavated from uplands and is not an (a)(1)- (a)(4) water nor does it meet other (b)(1) sub-categories.
Non-jurisdictional Wetland 1	0.03 acre	(b)(1) Non-adjacent wetland	Non-jurisdictional Wetland 1 extends offsite; however, the wetland, including both the onsite and offsite portions, is a closed polygon boundary 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: Atwood Hwy 174 AJD Submittal – Sabine and Waters dated December 2, 2020.

This information is sufficient for purposes of this AJD.

Rationale: N/A

Data sheets prepared by the Corps: N/A

Photographs: Google Earth (January 29, 2020)

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

Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s)*.

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

USDA NRCS Soil Survey: Seabrook loamy fine sand

USFWS NWI maps: E2EM1N, Uplands

USGS topographic maps: N/A

**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	Reg Viewer

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

**B. Typical year assessment(s):** N/A

**C. Additional comments to support AJD:** The project review area includes tidal wetlands, which are jurisdictional and subject to regulation under Section 10 of the RHA and Section 404 of the CWA. The site also includes an excluded ditch and an excluded wetland that are non-jurisdictional and not subject to regulation under Section 404 of the CWA and Section 10 of the RHA.

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