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-2021-00040
Associated JDs: N/A
Review Area Location[1]:
State: SC City: Prosperity County: Newberry County
Center Coordinates of Review Area: Latitude 34.105079 Longitude -81.461329

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
JT-1	1614 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	JT-1 is a naturally occurring unnamed intermittent tributary that flows directly into the (a)(1) TNW Lake Murray, which is also an (a)(3) impoundment of the TNW Saluda River. JT-1 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. Based on review of information submitted by the 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-1 satisfies the flow conditions and

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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.

			criteria included in the (c)(12) tributary definition of the NWPR. Therefore, JT-1 has been determined to be an (a)(2) water of the U.S.
JT-2	133 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	JT-2 is a naturally occurring unnamed intermittent tributary that receives drainage from JW-H (described below), then flows directly into JW-G (described below) where it loses channel and braids out into the wetland, then drains into JT-1 (described above), which then drains/flows directly into the (a)(1) TNW Lake Murray, an (a)(3) impoundment of the TNW Saluda River. JT-2 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. Based on review of information submitted by the 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-2 satisfies the flow conditions and criteria included in the (c)(12) tributary definition of the NWPR. Therefore, JT-2 has been determined to be an (a)(2) water of the U.S.
JT-3	328 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	JT-3 is a naturally occurring unnamed intermittent tributary mapped by USGS as a dashed blue line, indicating potential intermittent flow. JT-3 dissipates in JW-P (described below) and then re-channelizes off-site as indicated on the USGS mapping. JT-3 eventually drains into the (a)(1) TNW Lake Murray, an (a)(3) impoundment of the TNW Saluda River. JT-3 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. Based on review of information submitted by the 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-3 satisfies the flow conditions and criteria included in the (c)(12) tributary definition of the NWPR.
JT-4	75 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	JT-4 is a naturally occurring unnamed intermittent tributary that receives drainage from JW-P (described below). JT-4 then flows directly into an off-site dashed blue line stream indicated on the USGS mapping, which drains/flows directly into the (a)(1) TNW Lake Murray, an (a)(3) impoundment of the TNW Saluda River. JT-4 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 flagging. Based on a review of information submitted by the 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-4 satisfies the flow conditions and criteria included in the

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			(c)(12) tributary definition of the NWPR. Therefore, JT-4 has been determined to be an (a)(2) water of the U.S.
JT-5	412 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	JT-5 is a naturally occurring unnamed intermittent tributary that receives drainage from JW-Q and JW-R (described below). JT-5 then flows directly into JW-P (described below) that then drains into JT-4, which then drains into off-site (a)(2) water as indicated by the dashed blue line on the USGS mapping. The off-site blue line feature then drains/flows directly into the (a)(1) TNW Lake Murray, an (a)(3) impoundment of the TNW Saluda River. JT-5 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. Based on a review of information submitted by the 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-5 satisfies the flow conditions and criteria included in the (c)(12) tributary definition of the NWPR. Therefore, JT-5 has been determined to be an (a)(2) water of the U.S.
JT-6	52 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	JT-6 is a naturally occurring unnamed intermittent tributary that flows into the (a)(1) TNW Lake Murray, an (a)(3) impoundment of the TNW Saluda River. JT-6 is a downstream segment of JT-1 (described above) and 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. Based on a review of information submitted by the 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-6 satisfies the flow conditions and criteria included in the (c)(12) tributary definition of the NWPR. Therefore, JT-6 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
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
JW-A	0.47 acre	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature	JW-A is only separated from JT-1 (described above) by a natural berm on the bank of JT-1. On this basis JW-A is an (a)(4) water.
JW-B	0.61 acre	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature	JW-B is only separated from JT-1 (described above) by a natural berm on the bank of JT-1. On this basis JW-B is an (a)(4) water.
JW-C	0.015 acre	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural	JW-C is only separated from JT-1 (described above) by a natural berm on the bank of JT-1. On this basis JW-C

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		feature	is an (a)(4) water.
JW-F	0.036 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	JW-F is contiguous and directly abutting (a)(2) tributary JT-1 (described above). On this basis, JW-F is an (a)(4) water.
JW-G	0.284 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	JW-G is contiguous and directly abutting (a)(2) tributary JT-1 (described above). On this basis, JW-G is an (a)(4) water.
JW-H	0.802 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	JW-H is contiguous and directly abutting (a)(2) tributary JT-2 (described above). On this basis, JW-H is an (a)(4) water.
JW-I	0.275 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	JW-I is contiguous and directly abutting (a)(1) water Lake Murray off-site. On this basis, JW-I is an (a)(4) water.
JW-J	0.057 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	JW-J is the upgradient portion of JW-I (described above) that is separated by an asphalt road but is connected by an artificial structure (culvert) that provides a direct hydrologic surface connection during a typical year. JW-I, then drains into Lake Murray ((a)(1) water) off-site. On this basis JW-J is an (a)(4) water.
JW-L	0.048 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	JW-L is contiguous and directly abutting (a)(2) tributary JT-1 (described above). On this basis, JW-L is an (a)(4) water.
JW-O	0.742 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	JW-O is contiguous and directly abutting (a)(2) tributary JT-3 (described above). On this basis, JW-O is an (a)(4) water.
JW-P	3.018 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	JW-P is contiguous and directly abutting (a)(2) tributaries JT-3 and JT-4 (described above). On this basis, JW-P is an (a)(4) water.
JW-Q	0.097 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	JW-Q is contiguous and directly abutting (a)(2) tributary JT-5 (described above). On this basis, JW-Q is an (a)(4) water.
JW-R	0.054 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	JW-R is contiguous and directly abutting (a)(2) tributary JT-5 described above. On this basis, JW-R is an (a)(4) water.
JW-S	0.135 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	JW-S is depicted on LiDAR mapping data to be contiguous and directly abutting an (a)(2) tributary off-site that flows directly into the (a)(1) TNW Lake Murray, an (a)(3) impoundment of the TNW Saluda River. On this basis, JW-S is an (a)(4) water.
JW-T	0.009 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	JW-T is depicted on LiDAR mapping data to be contiguous and directly abutting an (a)(2) tributary off-site that flows directly into the (a)(1) TNW Lake Murray, an (a)(3) impoundment of the TNW Saluda River. On this basis, JW-T is an (a)(4) water.
JW-U	0.169 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	JW-U is depicted on LiDAR mapping data to be contiguous and directly abutting an (a)(2) tributary off-site that flows directly into the (a)(1) TNW Lake Murray, an (a)(3) impoundment of the TNW Saluda River. On this basis, JW-U is an (a)(4) water.

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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
NJF-1	290 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)	NJF-1 is an ephemeral roadside drainage ditch constructed in uplands. No OHWM was observed. No water or flow observed at time of flagging. NJF-1 lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge) and was fully vegetated with upland species. Roadside ditch NJF-1 does not meet the (c)(12) definition of tributary and thus has been determined to be a (b)(5) ephemeral feature.
NJW-D	0.208 acre	(b)(1) Non-adjacent wetland	NJW-D 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).
NJW-E	0.125 acre	(b)(1) Non-adjacent wetland	NJW-E is a closed boundary polygon that is not contiguous or directly abutting an (a)(1)-(a)(3) water. While there is a road-side ditch (NJF-1) between NJW-E and downstream waters (JT-1), this (b)(5) non-jurisdictional feature cannot alter the adjacency of this otherwise isolated wetland. 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).
NJW-K	0.133 acre	(b)(1) Non-adjacent wetland	NJW-K is a closed boundary polygon that is not contiguous or directly abutting an (a)(1)-(a)(3) water. While there is a road-side ditch (NJF-1) between NJW-K and downstream waters (JT-1), this (b)(5) non-jurisdictional feature cannot alter the adjacency of this otherwise isolated wetland. 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).
NJW-M	0.276 acre	(b)(1) Non-adjacent wetland	NJW-M 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).
NJW-N	0.073 acre	(b)(1) Non-adjacent wetland	NJW-N 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.

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_X_ Information submitted by, or on behalf of, the applicant/consultant: **Jurisdictional Determination Request (AJD), prepared by S&ME, Inc., dated December 21, 2020**. This information is sufficient for purposes of this AJD.
Rationale: **The wetland data forms, and additional information submitted by the agent 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: **Other: Photographs provided in AJD submittal package. Photographs taken on June 24 and July 9, 2020.**
___ Corps Site visit(s) conducted on: *N/A*
___ Previous Jurisdictional Determinations (AJDs or PJDs): *N/A*
_X_ Antecedent Precipitation Tool: *Detailed discussion in Section III.B.*
_X_ USDA NRCS Soil Survey: **Provided by applicant titled "Soil Exhibits" dated 12/16/2020**
_X_ USFWS NWI maps: **Provided by applicant titled "NWI Exhibit" dated 12/16/2020**
_X_ USGS topographic maps: **Provided by applicant titled "Topographic Exhibit" dated 12/16/2020**

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	SAC Regulatory Viewer
State/Local/Tribal Sources	N/A.
Other Sources	LiDAR mapping data provided by applicant titled "LIDAR Exhibit" dated 12/16/2020

B. Typical year assessment(s): The Antecedent Precipitation Tool (APT) data for the typical year assessment were calculated based on the field collection dates denoted on the wetland determination data forms and photos (June 24, 2020, and July 9, 2020). Output from the APT indicated "wetter than normal" conditions at the time of data collection by the agent in June 2020 with a condition value of 15, and "normal" conditions at the time of data collection by the agent in July 2020 with a condition value of 11. APT outputs with condition values between 10 and 14 indicate "normal" conditions, and values equal to or greater than 15 indicate "wetter than normal" conditions. Results of the APT indicate the boundaries of the aquatic resources as documented here have been observed during multiple condition values and are an accurate representation of the extent and boundaries that would be observed within a typical year. In addition, flow via the culvert between (a)(4) wetlands JW-I and JW-J occurs strongly during a typical year.

C. Additional comments to support AJD: This form documents an approximately 199.42-acre site that includes 16 (a)(4) and 6 (a)(2) waters that were determined to be waters of the United States.

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The project area also includes 5 (b)(1) and 1 (b)(5) excluded waters that were determined not to be waters of the United States.

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