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 20, 2021
ORM Number: SAC-2021-00335
Associated JDs: N/A
Review Area Location[1]:
State: SC City: Summerville County: Dorchester County
Center Coordinates of Review Area: Latitude 32.962748 Longitude -80.173974

## 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 |

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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.

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

| (a)(4) Name | (a)(4) Size | (a)(4) Criteria | Rationale for (a)(4) Determination |
|---|---|---|---|
| JW-D | 1.49 acres | (a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water in a typical year | JW-D is separated from an (a)(2) water (Dorchester Creek) by only an earthen dike and is connected by an artificial structure (culvert) that provides a direct hydrologic surface connection. See Section III.C for more information. |

## D. Excluded Waters or Features

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

| Exclusion Name | Exclusion Size | Exclusion[5] | Rationale for Exclusion Determination |
|---|---|---|---|
| NFJ-11 | 638 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) | Feature lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). This feature was constructed in the uplands, exhibited no distinct OHWM, and had abundant leaf litter and debris within the streambed. |
| NJF-1 | 667 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) | Feature lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). This feature was constructed in the uplands, exhibited no distinct OHWM, and had abundant leaf litter and debris within the streambed. |
| NJF-10 | 224 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) | Feature lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). This feature was constructed in the uplands, exhibited no distinct OHWM, and had abundant leaf litter and debris within the streambed. |
| NJF-2 | 224 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) | Feature lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). This feature was constructed in the uplands, exhibited no distinct OHWM, and had abundant leaf litter and debris within the streambed. |
| NJF-3 | 26 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) | Feature lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). This feature was constructed in the uplands, exhibited no distinct OHWM, and had abundant leaf litter and debris within the streambed. |
| NJF-4 | 1378 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) | Feature lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). This feature was constructed in the uplands, exhibited no distinct OHWM, and had abundant leaf litter and debris within the streambed. |

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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.
[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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| NJF-5 | 752 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) | Feature lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). This feature was constructed in the uplands, exhibited no distinct OHWM, and had abundant leaf litter and debris within the streambed. |
| NJF-6 | 27 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) | Feature lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). This feature was constructed in the uplands, exhibited no distinct OHWM, and had abundant leaf litter and debris within the streambed. |
| NJF-7 | 413 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) | Feature lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). This feature was constructed in the uplands, exhibited no distinct OHWM, and had abundant leaf litter and debris within the streambed. |
| NJF-8 | 311 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) | Feature lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). This feature was constructed in the uplands, exhibited no distinct OHWM, and had abundant leaf litter and debris within the streambed. |
| NJF-9 | 622 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) | Feature lacked hydrological indicators of flow greater than ephemeral (flowing only in direct response to precipitation and non-channelized sheet flow recharge). This feature was constructed in the uplands, exhibited no distinct OHWM, and had abundant leaf litter and debris within the streambed. |
| NJW-A | 0.65 acre | (b)(1) Non-adjacent wetland | This feature does not abut an (a)(1)-(a)(3) water and only connects to such a feature through an excluded (b)(5) ditch (NJF-1). As such, this feature does not meet the (c)(1) adjacency requirements and is excluded from jurisdiction. |
| NJW-B | 3.62 acres | (b)(1) Non-adjacent wetland | This feature does not abut an (a)(1)-(a)(3) water and only connects to such a feature through excluded (b)(5) ditches (NJF-2, NJF-3, and NJF-1). As such, this feature does not meet the (c)(1) adjacency requirements and is excluded from jurisdiction. |
| NJW-C | 0.34 acre | (b)(1) Non-adjacent wetland | This feature does not abut an (a)(1)-(a)(3) water and only connects to such a feature through excluded (b)(5) ditches (NJF-2, NJF-3, and NJF-1). As such, this feature does not meet the (c)(1) adjacency requirements and is excluded from jurisdiction. |
| NJW-E | 0.02 acre | (b)(1) Non-adjacent wetland | This feature does not abut an (a)(1)-(a)(3) water and only connects to such a feature through an excluded (b)(5) ditch (NJF-4). As such, this feature does not meet the (c)(1) adjacency requirements and is excluded from jurisdiction. |

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| NJW-F | 1.07 acres | (b)(1) Non-adjacent wetland | This feature does not abut an (a)(1)-(a)(3) water and only connects to such a feature through an excluded (b)(5) ditch (NJF-10). As such, this feature does not meet the (c)(1) adjacency requirements and is excluded from jurisdiction. |
| NWW | 1.16 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) | A review of aerial imagery shows that this pond was constructed in the upland during the late 1990's/early 2000's and does not meet the requirements of (c)(6) to be jurisdictional. |

## 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: *Request for Corps Jurisdictional Determination (JD)/Delineation, prepared by S&ME, Inc., dated February 1, 2021.*
  This information *is* sufficient for purposes of this AJD.
  Rationale: *N/A.*
- ___ Data sheets prepared by the Corps: *N/A.*
- **X** Photographs: Site *Photographs taken on December 6, 2019 by the consultant; Google Earth Aerial Imagery from January 18, 1995, June 14, 2005, January 28, 2021.*
- **X** Corps Site visit conducted on: *June 9, 2021*
- **X** Previous Jurisdictional Determinations (AJDs or PJDs): *SAC-2015-00807 (Issued June 17, 2016).*
- **X** Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- **X** USDA NRCS Soil Survey: *Web Soil Survey: Dorchester County, South Carolina (accessed July 19, 2021).*
- **X** USFWS NWI maps: *NWI Wetland Mapper, accessed July 19, 2021.*
- **X** USGS topographic maps: *Stallsville 7.5' Topographic Map*

**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 | LiDAR data from the South Carolina Department of Natural Resources and USGS. |
| Other Sources | N/A. |

**B. Typical year assessment(s):** A typical year assessment was conducted to determine if a hydrologic connection exists in a typical year between feature JW-D and Dorchester Creek. In order to conduct

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the assessment, the Antecedent Precipitation Tool (APT) was used. The APT analyzes precipitation data from nearby weather stations for the previous 90 days to determine if conditions during the were normal based on the 30-year average. The APT also provides the Palmer Drought Severity Index (a measure of regional drought conditions) and the webWIMPH20 (a comparison of precipitation and evapotranspiration).

The APT was ran for January 28, 2021. This date was selected since satellite imagery taken on this date (Google Earth) clearly shows flows from JW-D entering Dorchester Creek and then into the Ashley River.

The APT reported that the antecedent precipitation for January 28, 2021 was within the normal range. Furthermore, the Palmer Drought Severity Index was reported conditions as being in 'mild wetness', and the WebWIMP reported January as the wet season for this area (precipitation exceeds evapotranspiration). Based on these observations, conditions observed on this date in Google Earth imagery were typical for the year.

**C. Additional comments to support AJD:**

Feature JW-D: This feature consists of 1.49 acres of freshwater wetlands and is separated from Dorchester Creek (a perennial stream) by only an earthen dike. Furthermore, an artificial structure (culvert) provides a direct hydrologic surface connection between the wetlands and Dorchester Creek. A review of satellite imagery from January 28, 2021 shows that water from JW-D flows into Dorchester Creek and then into the Ashley River, which is an (a)(1) Traditional Navigable Water. Based on the typical year assessment conducted in III.B, conditions observed on this date occur in a typical year. Therefore, JW-D is an (a)(4) adjacent wetland since it is separated from an (a)(2) tributary (Dorchester Creek) by only an earthen dike and is connected by an artificial structure (culvert) that provides a hydrologic connection in a typical year.

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