



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): 23-JUN-2021

ORM Number: SAC-2019-00755

Associated JDs: N/A

Review Area Location¹:

State/Territory: SC City: Moncks Corner County: Berkeley County

Center Coordinates of Review Area: Latitude 33.196121, Longitude -79.982018

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

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

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

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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.

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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.



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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
Ditch 1	317 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)	Ditch 1 was constructed in the uplands and is not an (a)(1) or (a)(2) water. See III.C for additional information.
Wetland 1	0.3 acre	(b)(1) Non-adjacent wetland	This wetland does not meet adjacency requirements under the Navigable Waters Protection Rule (33 CFR 328.3(c)(1)) and is a non-adjacent wetland. See III.C for additional information.
Wetland 2	0.13 acre	(b)(1) Non-adjacent wetland	This wetland does not meet adjacency requirements under the Navigable Waters Protection Rule (33 CFR 328.3(c)(1)) and is a non-adjacent wetland. See III.C for additional information.
Wetland 3	0.14 acre	(b)(1) Non-adjacent wetland	This wetland does not meet adjacency requirements under the Navigable Waters Protection Rule (33 CFR 328.3(c)(1)) and is a non-adjacent wetland. See III.C for additional information.
Wetland 4	0.2 acre	(b)(1) Non-adjacent wetland	This wetland does not meet adjacency requirements under the Navigable Waters Protection Rule (33 CFR 328.3(c)(1)) and is a non-adjacent wetland. See III.C for additional information.
Wetland 5	0.78 acre	(b)(1) Non-adjacent wetland	This wetland does not meet adjacency requirements under the Navigable Waters Protection Rule (33 CFR 328.3(c)(1)) and is a non-adjacent wetland. See III.C for additional information.

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: *Request for Jurisdictional Determination/Delineation, Dated May 1, 2019.*
This information is sufficient for purposes of this AJD.
Rationale: *N/A.*
Data sheets prepared by the Corps: *N/A.*
- Photographs: *Site Photos submitted by the requestor (3/2019); Google Earth Aerial Imagery (1/2021, 5/2020, 9/2019, 7/2003, 3/1999, 2/1994).*
- Corps Site visit(s) conducted on: *N/A.*
- Previous Jurisdictional Determinations (AJDs or PJDs): *N/A.*
- Antecedent Precipitation Tool: *N/A*
- USDA NRCS Soil Survey: *Berkeley County (Web Soil Survey).*
- USFWS NWI maps: *NWI Wetland Mapper.*

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X USGS topographic maps: *Cordesville 7.5' Topographic Map (1919, 1949, 2017, 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	N/A.
State/Local/Tribal Sources	LiDAR data provided by the South Carolina Department of Natural Resources and U.S. Geological Survey
Other Sources	N/A.

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

C. Additional comments to support AJD:

Wetland 1 and Ditch 1:

Wetland 1 is located on the western side of the property and extends outside of the review area. As shown on satellite imagery and LiDAR data, a shallow ditch (Ditch 1) extends from Wetland 1 and travels south across the review area until it intersects the roadside ditch along the northside of Stoney Landing Road. Flow within the ditch is conveyed under Stoney Landing Road through a culvert where it empties into a marsh and an unnamed tributary to the West Branch of the Cooper River (an (a)(1) water). Satellite imagery suggests that flows within Ditch 1 are likely intermittent since water is not consistently visible.

In order for Wetland 1 to be considered jurisdictional, Ditch 1 and the other downstream connecting ditches must meet the requirements of a tributary under the Navigable Waters Project Rule (a ditch that either relocates a tributary, is constructed in a tributary, or is constructed in an adjacent wetland as long as the ditch is intermittent or perennial). In order to determine the status of Ditch 1, historic aerial imagery and topographic maps dating back to 1919 were reviewed. Although the maps indicate that Wetland 1 has always been present in the western portion of the review area, there is no evidence of a connection or a tributary that would have followed the current path of the ditches. Contour lines and blue stream lines on the map suggest that flows from the review area likely traveled west or east (parallel to Stoney Landing Road) from the site prior to urbanization of the area. Furthermore, Stoney Landing Road makes a curve around the upper end of the downstream wetlands. This road connects to Stoney Landing Plantation, which has been in existence since the 1700's and served as an important shipping point for the region. Prior to the advent of modern construction equipment and road design principles, roads were frequently routed around wetlands since they were easier to build and maintain in upland areas. While it is not clear if the present-day road alignment follows the original route to the landing, the road has been in its current location since at least 1919. This

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suggests that the southern portion of the review area and Stoney Landing Road have always been an upland area.

In conclusion, although the Ditch 1 may exhibit the prerequisite flow regime to be considered a tributary, there is insufficient information to demonstrate that the ditch is a relocated tributary, was constructed in a tributary, or was constructed in an adjacent wetland. Therefore, Ditch 1 is an excluded feature and Wetland 1 is a non-adjacent wetland under the Navigable Waters Protection Rule. Neither feature is subject to regulation under Section 404 of the Clean Water Act or Sections 9 and 10 of the Rivers and Harbors Act.

Wetlands 2 through 5:

Wetlands 2 through 5 are small, excluded features within the review area. None of these features connect to another waterbody and are not located adjacent to an (a)(1) through (a)(3) water, as defined at 33 CFR 328.3(c)(1). Therefore, these wetlands are not subject to regulation under Section 404 of the Clean Water Act or Sections 9 and 10 of the Rivers and Harbors Act.

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