



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): June 10, 2021

ORM Number: SAC-2021-00358

Associated JDs: N/A

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

State: SC City: Fountain Inn County: Greenville County

Center Coordinates of Review Area: Latitude 34.701759 Longitude -82.231637

**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)<sup>2</sup>**

§ 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)<sup>3</sup>

(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
Waters of the US 2	1438 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Waters of the US 2 is a perennial tributary that is shown as a blue line on the topographic map. This tributary was observed flowing during flagging and during the Corps site visit. It flows to Waters of the US 5, which flows off-site to Payne Branch, which flows to South Rabon Creek which flows to Rabon Creek which flows to the Saluda River (TNW). This tributary has a defined channel and clear OWHM indicators which include a natural line on the bank, absent vegetation absent or matted, leaf litter washed away, and water staining. This tributary appears to have been manipulated and moved around the excluded pond when the pond was

<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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			constructed. This tributary was determined to be an (a)(2) water.
Waters of the US 4	95 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Waters of the US 4 is a naturally occurring perennial tributary. LiDAR and the topographic map depict the tributary within a natural occurring drainage area, but it is not mapped as a blue line on the topographic map. This tributary was observed flowing during flagging and during the Corps site visit. It flows to Waters of the US 5, which flows off-site to Payne Branch, which flows to South Rabon Creek which flows to Rabon Creek which flows to the Saluda River (TNW). This tributary has a defined channel and clear OWHM indicators which include a natural line on the bank, absent vegetation absent or matted, leaf litter washed away, and water staining. This tributary was determined to be an (a)(2) water.
Waters of the US 5	306 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Waters of the US 5 is a naturally occurring perennial tributary that is shown as a blue line on the topographic map. This tributary was observed flowing during flagging and during the Corps site visit. It flows off-site to Payne Branch, which flows to South Rabon Creek which flows to Rabon Creek which flows to the Saluda River (TNW). This tributary has a defined channel and clear OWHM indicators which include a natural line on the bank, absent vegetation absent or matted, leaf litter washed away, and water staining. This tributary was determined to be an (a)(2) water.

**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
Waters of the US 1	3.177 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Waters of the US 1 is a jurisdictional wetland that directly abuts Waters of the US 2, an (a)(2) water documented above. This wetland was determined to be an (a)(4) water.
Waters of the US 3	0.075 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	Waters of the US 3 is a jurisdictional wetland that is separated from Waters of the US 2, an (a)(2) water, by an artificial structure. Waters of the US 3 has a culvert that goes under an artificial barrier, possibly an old path or road. This wetland is linear and drainage patterns, waters stained leaves, and a high-water table was observed. While water was not observed flowing through the culvert during the site visits, signs of flow were observed. These signs include drainage patterns, saturation, and the culvert was not blocked or buried. The culvert was situated in a way that appeared to allow flow during a typical year. This wetland was determined to be an (a)(4) water.

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Waters of the US 6	0.01 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	Waters of the US 6 is a jurisdictional water that is separated from Waters of the US 5, an (a)(2) water, by an artificial structure. Waters of the US 6 goes off-site and is connected to the downstream waters of Waters of the US 5 by a culvert that goes under the road. Water was observed standing in the wetland at the time of flagging and water stained leaves and drainage patterns were also observed. While water was not observed flowing through the culvert during the site visits, signs of flow were observed. These signs include drainage patterns, saturation, and the culvert was not blocked or buried. The culvert was situated in a way that appeared to allow flow during a typical year. This wetland was determined to be an (a)(4) water.
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**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
Excluded Water	3.12 acres	(b)(8) Artificial lake/pond constructed or excavated in upland or non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6)	This pond was excavated completely in uplands. It appears to possibly discharge into Waters of the US 4 but was not constructed on a water of the US. This feature was determined to be an excluded water.

**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: Jurisdictional Determination Request from EPC dated February 15, 2021  
This information is sufficient for purposes of this AJD.  
Rationale: The Corps agrees with the conclusions of the submitted report and data forms.  
Data sheets prepared by the Corps: N/A
- Photographs: Photos provided by EPC in submittal, “Data and Photo Point Locations” submitted by agent dated 2/15/2021 (Source: Google Maps-2019 Aerial)
- Corps Site visit(s) conducted on: 3/23/2021
- Previous Jurisdictional Determinations (AJDs or PJDs): N/A
- Antecedent Precipitation Tool: Detailed discussion in Section III.B.
- USDA NRCS Soil Survey: “Water Features Soil/NWI” submitted by agent dated 2/15/2021 (Source: SSURGO Database for SC, USDA NRCS accessed 2/15/2021)
- USFWS NWI maps: “Water Features Soil/NWI” submitted by agent dated 2/15/2021 (Source: USFWS NWI, last updated 10/8/2019)
- USGS topographic maps: “Water Features USGS Topo” submitted by agent dated 2/15/2021, Fountain Inn Quad

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**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 accessed multiple times during review
State/Local/Tribal Sources	N/A.
Other Sources	"LIDAR 2ft Contour" provided by agent dated 2/15/2021

- B. Typical year assessment(s):** The Antecedent Precipitation Tool (APT) data for the typical year assessment was calculated based on the field collection date (11/23/2020) and the date of the Corps site visit (3/23/2021). APT outputs with condition values greater than or equal to 15 indicates "wetter than normal" conditions, condition values between 10 and 14 indicate "normal" conditions, and condition values less than or equal to 9 indicates "drier than normal conditions. Output from the APT indicated wetter than normal conditions at the time of data collection by the agent with a condition value of 15 and conditions were normal at the time of the Corps site visit with a value of 13.
- C. Additional comments to support AJD:** This form documents a 59.96-acre site that has three (a)(2) waters, three (a)(4) waters and one excluded water.

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