



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): **09-MAR-2021**

ORM Number: SAC-2014-00215

Associated JDs: SAC-2014-00215 CBRE #1376 PJD dated November 5, 2018; SAC-2014-00215 CBRE #1376 AJD dated December 20, 2018

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

State: South Carolina City: Spartanburg County: Spartanburg County

Center Coordinates of Review Area: Latitude 34.980308 Longitude -82.02202

**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
Jurisdictional Tributary 1 1,110 LF	1,110 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Tributary 1 1,110 LF is shown as a blue line on the topo map and as perennial on the soils map. The tributary was seen to have flowing water at the time of flagging. The following ordinary high water mark (OHWM) indicators were observed along the tributary: bed and banks, OHWM, and a distinct channel. It flows directly into Fairforest Creek offsite which flows directly to the Tyger River which flows to the Broad River (TNW). Therefore, the Corps has determined this feature to be a tributary and thus an (a)(2) water of the

<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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			U.S.
Jurisdictional Tributary 2 25 LF	25 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Tributary 2 25 LF is shown as a blue line on the topo map and as perennial on the soils map. The tributary was seen to have flowing water at the time of flagging. The following ordinary high water mark (OHWM) indicators were observed along the tributary: bed and banks, OHWM, and a distinct channel. It starts onsite and flows into Jurisdictional Tributary 1 1,110 LF, which flows directly into Fairforest Creek offsite which flows directly to the Tyger River which flows to the Broad River (TNW). Therefore, the Corps has determined this feature to be a tributary and thus an (a)(2) water of the U.S.
Jurisdictional Tributary 3 1,010 LF	1,010 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Tributary 3 1,010 LF is shown as a blue line on the topo map and as perennial on the soils map. The tributary was seen to have flowing water at the time of flagging. The following ordinary high water mark (OHWM) indicators were observed along the tributary: bed and banks, OHWM, and a distinct channel. It flows into Jurisdictional Tributary 4 which flows directly into Fairforest Creek which flows directly to the Tyger River which flows to the Broad River (TNW). Therefore, the Corps has determined this feature to be a tributary and thus an (a)(2) water of the U.S.
Jurisdictional Tributary 4 275 LF	275 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Tributary 4 275 LF is shown as a blue line on the topo map and as perennial on the soils map. The tributary was seen to have flowing water at the time of flagging. The following ordinary high water mark (OHWM) indicators were observed along the tributary: bed and banks, OHWM, and a distinct channel. It flows directly into Fairforest Creek which flows directly to the Tyger River which flows to the Broad River (TNW). Therefore, the Corps has determined this feature to be a tributary and thus an (a)(2) water of the U.S.
Jurisdictional Tributary 5 1,430 LF	1,430 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Tributary 5 1,430 LF is Fairforest Creek, which is shown as a blue line on the topo map and as perennial on the soils map. The tributary was seen to have flowing water at the time of flagging. The following ordinary high water mark (OHWM) indicators were observed along the tributary: bed and banks, OHWM, and a distinct channel. As Fairforest Creek, it flows directly to the Tyger River which flows to the Broad River (TNW). Therefore, the Corps has determined this feature to be a tributary and thus 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

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

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Jurisdictional Wetland 3 0.6 acres	0.6 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 3 directly abuts Jurisdictional Tributary 3 an (a)(2) water. Therefore, the Corps has determined this wetland to be an (a)(4) water of the U.S.
Jurisdictional Wetland 4 0.1 acre	0.1 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 4 directly abuts Jurisdictional Tributary 3 an (a)(2) water. Therefore, the Corps has determined this wetland to be an (a)(4) water of the U.S.
Jurisdictional Wetland 5 0.06 acre	0.06 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 5 directly abuts Jurisdictional Tributary 3 an (a)(2) water. Therefore, the Corps has determined this wetland to be an (a)(4) water of the U.S.

**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 Wetland 1	0.3 acres	(b)(1) Non-adjacent wetland	This wetland 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).
Excluded Water Wetland 2	0.7 acres	(b)(1) Non-adjacent wetland	This wetland 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).
Excluded Water Wetland 3	0.01 acres	(b)(1) Non-adjacent wetland	This wetland 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: Terracon Consultants, “Depiction of Aquatic Resources, Project Pottery Road” dated March 2021  
This information is sufficient for purposes of this AJD.

Rationale: The Corps agrees with the conclusions of the submitted report and data sheets.

Data sheets prepared by the Corps: N/A

Photographs: Google Earth Aerial dated January 31, 2019; Photos 1-10 of 10 taken by the consultant dated February 22, 2021; USGS National Map 3D Elevation Program (3DEP)

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

Previous Jurisdictional Determinations (AJDs or PJDs): SAC-2014-00215 CBRE #1376 PJD dated November 5, 2018; SAC-2014-00215 CBRE #1376 AJD dated December 20, 2018

Antecedent Precipitation Tool: See Section B below.

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- USDA NRCS Soil Survey: NRCS / Soil Survey Geographic Database (SSURGO) Map Service, SSURGO 2020 Cecil, Chewacla
- USFWS NWI maps: USFWS NWI - Wetlands Raster REST Map Service
- USGS topographic maps: 1:24,000 / Wellford Quad

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS Topographic Map dated February 25, 2021
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	SAC Regulatory Viewer accessed February 25, 2021
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** Antecedent Precipitation Tool (APT) results for typical year determination was calculated for the date the site was visited by the consultant (2/22/2021). The date was considered to be normal conditions with a value of 14.
- C. Additional comments to support AJD:** The determination covers 95.58 acres with 8 jurisdictional features and 3 excluded (non-jurisdictional) features. The project area includes 5 (a)(2) waters, 3 (a)(4) waters, and 3 excluded (b)(2) waters. Jurisdictional Tributaries 1, 3, 4, and 5 are perennial (a)(2) waters and Jurisdictional Wetlands 3, 4, and 5 directly abut Tributary 3 making them (a)(4) waters. Jurisdictional Tributary 2 is an intermittent (a)(2) water. Excluded Waters 1, 2, and 3 are completely encompassed by uplands and lack a direct or indirect surface water connection to (a)(1)-(3) waters. Since the wetlands do not abut an (a)(1)-(3) water and is not inundated by an (a)(1)-(3) water, the Corps has determined the wetlands to be excluded under the Navigable Waters Protection Rule.

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