



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): **18-MAY-2021**

ORM Number: SAC-2020-01479

Associated JDs: N/A

Review Area Location¹:

State: South Carolina City: Greer County: Spartanburg County

Center Coordinates of Review Area: Latitude 34.844571 Longitude -82.208558

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
WOUS 1 Jurisdictional Tributary	489 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Tributary 1 is a named tributary (Enoree River) and is shown as a blue line on the topo map and on the NWI map. The tributary was seen to have flowing water at the time of flagging and during the Corps site visit. The following ordinary high water mark (OHWM) indicators were observed along the tributary: sediment deposition, destruction of terrestrial vegetation, wrack lines, bed and bank features, water staining, and the presence of litter and debris. It flows directly to the Broad River (TNW). Therefore, the Corps has determined the tributary to be an (a)(2) water and a water of the U.S.

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

² If the navigable water is not subject to the ebb and flow of the tide and 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.

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.



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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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Excluded Waters 1 Artificial Pond	0.24 acre	(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)	This pond is constructed entirely in uplands and does not contribute flow to an (a)(1)-(a)(3) water in a typical year and thus, is a (b)(1) excluded water.
Excluded Waters 2 Forested Wetland	0.01 acre	(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 a (b)(1) 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: EPC, Map “Waters of the US Survey for Mark III Properties, 282, 286 Nature Trail Drive” dated September 2, 2020, revised October 24, 2020 and Mark 3, 2021
This information is sufficient for purposes of this AJD.
Rationale: The Corps agrees with the conclusions of the submitted data sheets and submittal.
Data sheets prepared by the Corps: N/A
- Photographs: Google Earth Aerial dated January 28, 2021; Photos 1-20 of 20 taken by USACE dated December 18, 2020; Photos 1-41 of 41 taken by the consultant dated June 4, 2020; USGS National Map 3D Elevation Program (3DEP)
- Corps Site visit(s) conducted on: December 18, 2020
Previous Jurisdictional Determinations (AJDs or PJDs): N/A
- Antecedent Precipitation Tool: See Section B below.
- USDA NRCS Soil Survey: NRCS / Soil Survey Geographic Database (SSURGO) Map Service, SSURGO 2020 Cecil-Bethlehem complex, Cecil, Pacolet
- USFWS NWI maps: USFWS NWI - Wetlands Raster REST Map Service
- USGS topographic maps: 1:24,000 Pelham 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	USGS Topographic Map dated November 2, 2020
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	SAC Regulatory Viewer accessed November 2, 2020
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** Antecedent Precipitation Tool (APT) results for typical year determination were calculated for the date the site was visited by the consultant (6/4/2020) and the date the site was visited by the Corps (12/18/2020). On June 4, 2020, the conditions were wetter than normal; however, on December 18, 2020, the conditions were normal.
- C. Additional comments to support AJD:** The determination covers 36.88 acres with 1 jurisdictional feature and 2 excluded (non-jurisdictional) features. The project area includes 1 (a)(2) water, 1 (b)(8) water and 1 (b)(1) waters. Jurisdictional Tributary 1 (the Enoree River) is a perennial (a)(2) water. Excluded Water 1 Artificial Pond and Excluded Water 2 Forested Wetland are completely encompassed by uplands and lack a direct or indirect surface water connection to (a)(1)-(3) waters. Since the pond and the wetland do not contribute flow and are not inundated by an (a)(1)-(3) water, the Corps has determined the pond and the wetland to be excluded under the Navigable Waters Protection Rule.

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