



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): November 17, 2020

ORM Number: SAC-2020-00076

Associated JDs: N/A

Review Area Location¹:

State: SC City: Hardeeville County: Jasper County

Center Coordinates of Review Area: Latitude 32.2675 Longitude -81.069

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 |
|-------------|-------------|---|--|
| Wetland A | 2.89 acres | (a)(4) Wetland abuts an (a)(1)-(a)(3) water | Wetlands A – F are a part of the same contiguous on-site wetland system that runs offsite to the south and |

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 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.

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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|-----------|------------|---|---|
| | | | becomes part of White Oak Nook Swamp that directly abuts an unnamed (a)(1) traditional navigable water. Additionally, the wetland complex is divided by multiple artificial structures (East Lane Farm Road, Freedom Parkway, and South Okatie Highway). However, culverts at each crossing maintain a direct hydrologic connection at least once in a typical year. |
| Wetland B | 2.44 acres | (a)(4) Wetland abuts an (a)(1)-(a)(3) water | Wetlands A – F are a part of the same contiguous on-site wetland system that runs offsite to the south and becomes part of White Oak Nook Swamp that directly abuts an unnamed (a)(1) traditional navigable water. Additionally, the wetland complex is divided by multiple artificial structures (East Lane Farm Road, Freedom Parkway, and South Okatie Highway). However, culverts at each crossing maintain a direct hydrologic connection at least once in a typical year. |
| Wetland C | 0.73 acre | (a)(4) Wetland abuts an (a)(1)-(a)(3) water | Wetlands A – F are a part of the same contiguous on-site wetland system that runs offsite to the south and becomes part of White Oak Nook Swamp that directly abuts an unnamed (a)(1) traditional navigable water. Additionally, the wetland complex is divided by multiple artificial structures (East Lane Farm Road, Freedom Parkway, and South Okatie Highway). However, culverts at each crossing maintain a direct hydrologic connection at least once in a typical year. |
| Wetland D | 0.2 acre | (a)(4) Wetland abuts an (a)(1)-(a)(3) water | Wetlands A – F are a part of the same contiguous on-site wetland system that runs offsite to the south and becomes part of White Oak Nook Swamp that directly abuts an unnamed (a)(1) traditional navigable water. Additionally, the wetland complex is divided by multiple artificial structures (East Lane Farm Road, Freedom Parkway, and South Okatie Highway). However, culverts at each crossing maintain a direct hydrologic connection at least once in a typical year. |
| Wetland E | 0.96 acre | (a)(4) Wetland abuts an (a)(1)-(a)(3) water | Wetlands A – F are a part of the same contiguous on-site wetland system that runs offsite to the south and becomes part of White Oak Nook Swamp that directly abuts an unnamed (a)(1) traditional navigable water. Additionally, the wetland complex is divided by multiple artificial structures (East Lane Farm Road, Freedom Parkway, and South Okatie Highway). However, culverts at each crossing maintain a direct hydrologic connection at least once in a typical year. |
| Wetland F | 1.58 acres | (a)(4) Wetland abuts an (a)(1)-(a)(3) water | Wetlands A – F are a part of the same contiguous on-site wetland system that runs offsite to the south and becomes part of White Oak Nook Swamp that directly abuts an unnamed (a)(1) traditional navigable water. Additionally, the wetland complex is divided by multiple artificial structures (East Lane Farm Road, Freedom Parkway, and South Okatie Highway). However, culverts at each crossing maintain a direct hydrologic connection at least once in a typical year. |

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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 |
|-------------------|----------------|--|--|
| Excluded Water N | 3.32 acres | (b)(1) Non-adjacent wetland | Excluded Water N continues off-site to the north and east. However, according to best available imagery this feature is a closed boundary polygon 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 Waters G | 0.4 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) | Excluded Waters G is an open water feature resulting from excavation activities in non-jurisdictional wetland. Jurisdiction of the feature prior to excavation was determined via an AJD letter under Rapanos Guidance dated January 1, 2001. Therefore, it has been determined this feature was excavated in a non-jurisdictional water and thus meets the criteria of a (b)(8) excluded water. |
| Excluded Waters H | 0.27 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) | Excluded Waters H is an open water feature resulting from excavation activities in non-jurisdictional wetland. Jurisdiction of the feature prior to excavation was determined via an AJD letter under Rapanos Guidance dated January 1, 2001. Therefore, it has been determined this feature was excavated in a non-jurisdictional water and thus meets the criteria of a (b)(8) excluded water. |
| Excluded Waters I | 0.48 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) | Excluded Waters I is an open water feature resulting from excavation activities in non-jurisdictional wetland. Jurisdiction of the feature prior to excavation was determined via an AJD letter under Rapanos Guidance dated January 1, 2001. Therefore, it has been determined this feature was excavated in a non-jurisdictional water and thus meets the criteria of a (b)(8) excluded water. |
| Excluded Waters J | 0.15 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) | Excluded Waters J is an open water feature resulting from excavation activities in non-jurisdictional wetland. Jurisdiction of the feature prior to excavation was determined via an AJD letter under Rapanos Guidance dated January 1, 2001. Therefore, it has been determined this feature was excavated in a non-jurisdictional water and thus meets the criteria of a (b)(8) excluded water. |
| Excluded Waters K | 0.67 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) | Excluded Waters K is an open water feature resulting from excavation activities in non-jurisdictional wetland. Jurisdiction of the feature prior to excavation was determined via an AJD letter under Rapanos Guidance dated January 1, 2001. Therefore, it has been determined this feature was excavated in a non-jurisdictional water and thus meets the criteria of a (b)(8) excluded water. |

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 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.

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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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|-------------------|------------|--|--|
| Excluded Waters L | 0.2 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) | Excluded Waters L is an open water feature resulting from excavation activities in non-jurisdictional wetland. Jurisdiction of the feature prior to excavation was determined via an AJD letter under Rapanos Guidance dated January 1, 2001. Therefore, it has been determined this feature was excavated in a non-jurisdictional water and thus meets the criteria of a (b)(8) excluded water. |
| Excluded Waters M | 1.57 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) | Excluded Waters M is an open water feature resulting from excavation activities in non-jurisdictional wetland. Jurisdiction of the feature prior to excavation was determined via an AJD letter under Rapanos Guidance dated January 1, 2001. Therefore, it has been determined this feature was excavated in a non-jurisdictional water and thus meets the criteria of a (b)(8) 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: *Gateway Crossing NEI Project # 04-4341a Jasper County, South Carolina dated January 2, 2020*

This information is sufficient for purposes of this AJD.

Rationale: *N/A*

Data sheets prepared by the Corps: *N/A*

☒ Photographs: *Site Photographs submitted as part of the January 2, 2020 JD request.*

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

☒ Previous Jurisdictional Determinations (AJDs or PJDs): *SAC-39-2002-1273-W January 1, 2001 and SAC-2011-01154 May 30, 2012.*

☒ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*

☒ USDA NRCS Soil Survey: *Soils Map submitted as part of the January 2, 2020 JD request.*

☒ USFWS NWI maps: *NWI Map submitted as part of the January 2, 2020 JD request.*

☒ USGS topographic maps: *USGS Quad Map submitted as part of the January 2, 2020 JD request.*

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 | N/A. |
| Other Sources | N/A. |

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- B. Typical year assessment(s):** Antecedent Precipitation Tool (APT) data for typical year determination were calculated to determine if culverts within the divided wetland provide a direct hydrologic connection. Output from the APT indicated “Drier than Normal” conditions for the date of March 12, 2018 with a condition value of 8.
- C. Additional comments to support AJD:** The on-site wetlands are part of a large wetland complex, including wetlands subject to restrictive covenants and protected in perpetuity for impacts associated with DA Permit Number SAC-39-2002-1273-W and not subject to this AJD, that continues off-site to the south. The wetland complex continues flowing south/southeast eventually emptying into an unnamed (a)(1) traditional navigable water of the United States (TNW). The TNW is subject to the ebb and flood of the tide and therefore would be considered an (a)(1) water. The aforementioned wetland complex is divided by multiple artificial structures (roads). However, according to best available imagery, direct hydrologic connection is maintained via culverts that flow at least once in a typical year. Water is present both upstream and downstream of the referenced culverts on March 12, 2018, which according to APT data above, exhibited drier than normal conditions. Therefore, the on-site wetlands were determined to be (a)(4) adjacent wetlands. The site also contains eight non-jurisdictional (b)(8) excluded waters. These open water features were the result of excavation activities in non-jurisdictional isolated wetlands; jurisdiction status was evaluated via an AJD letter dated January 1, 2001 under Rapanos Guidance (SAC-39-2002-1273-W).

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