



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): October 2, 2020

ORM Number: SAC-2016-01176

Associated JDs: N/A

Review Area Location¹: A 3.332-acre site located in the western corner of the intersection of Patriot Boulevard and Appian Way.

State/Territory: SC City: North Charleston County/Parish/Borough: Dorchester County

Center Coordinates of Review Area: Latitude 32.92225 Longitude -80.110814

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 or describe rationale.
- 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

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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N/A	N/A	N/A	N/A
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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	100 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)	This is an open ditch constructed in the uplands and is not a relocated tributary.
Ditch 2	40 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)	This is an open ditch constructed in the uplands and is not a relocated tributary.
Wetland A	0.22 acres	(b)(1) Non-adjacent wetland	The wetland is not contiguous or directly abutting an (a)(1)-(a)(3) water. Furthermore, the wetland does not meet any other of the (a)(4) criteria for adjacency and thus is an excluded water pursuant to (b)(1). The wetland has a closed boundary located within the review area and there are no jurisdictional tributaries nearby the review area.
Wetland B	0.262 acres	(b)(1) Non-adjacent wetland	The wetland is not contiguous or directly abutting an (a)(1)-(a)(3) water. Furthermore, the wetland does not meet any other of the (a)(4) criteria for adjacency and thus is an excluded water pursuant to (b)(1). The wetland has a closed boundary located within the review area and there are no jurisdictional tributaries nearby the review area.

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: The Jurisdictional Determination Request package submitted to this office on November 22, 2016 by Wetland Solutions, LLC verified under Corps number SAC-2016-01176 on January 19, 2017, and the JD Request form submitted to the office on August 13, 2020.

This information is sufficient for purposes of this AJD.

Rationale: The agent stated over the phone that site conditions have not changed since the previous delineation submitted to our office. Therefore, new wetland data sheets are not required.

Data sheets prepared by the Corps:

Photographs: 2006 Infrared aerial created by the Corps 9/29/2020

Corps Site visit(s) conducted on:

Previous Jurisdictional Determinations (AJDs or PJDs): AJD SAC-2016-01176 issued on

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January 19, 2017 determined wetland A and B were jurisdictional with a significant nexus under the Rapanos guidance. The AJD details “Water from Wetland A and Wetland B flow through Jurisdictional Ditch B to an offsite stormwater drainage ditch which flows directly into Coosaw Creek”. Ditch B is the same as Ditch 2 under the AJD review. The Ditch 2 is not a jurisdictional (a)(2) tributary and the wetlands are not jurisdictional (a)(4) adjacent wetlands under the current NWPR, as detailed above.

- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Hydric Soil Map created by the Corps 9/29/2020.
- USFWS NWI maps: *Title(s) and/or date(s).*
- USGS topographic maps: *Title(s) and/or date(s).*

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	LIDAR created by the Corps 9/29/2020.

- B. Typical year assessment(s):** A wetland can be determined as an (a)(4) adjacent wetlands when an (a)(2) tributary inundates the wetland by flooding in a typical year. However, since the ditches are not (a)(2) tributaries there is no need for a typical year assessment in this review.
- C. Additional comments to support AJD:** According to the Navigable Waters Protection Rule, a ditch cannot render an otherwise isolated wetland an “adjacent wetland” and thus jurisdictional on that basis, unless the ditch itself is a tributary. Therefore, Wetland A and B were determined to be non-jurisdictional (b)(1) excluded waters and not subject to regulation under Section 404 of the Clean Water Act.

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