



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 9, 2020

ORM Number: SAC-2020-01079

Associated JDs: N/A

Review Area Location¹:

State/Territory: SC City: Goose Creek County/Parish/Borough: Berkeley County

Center Coordinates of Review Area: Latitude 33.009558 Longitude -80.021846

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
Jurisdictional Wetland	1 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The onsite wetland continues offsite and is part of a larger freshwater wetland system called Brick Bound

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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			<p>Swamp. Brock Bound Swamp abuts Foster Creek, which is an (a)(2) tributary. From the project review area, the wetland continues to the east and is crossed by Adle Road. A culvert (#1) is present under Adle Road that maintains the hydrologic connection. The wetland continues towards the south where it is crossed by Liberty Hall Road. A culvert (#2) is also present under Liberty Hall Road that maintains the hydrologic connection. The wetland continues to the east where it is crossed by Henry E. Brown Jr. Blvd. Within the wetland area between Liberty Hall Road and Henry E. Brown Road, a defined channel for Foster Creek, an (a)(2) tributary, begins. The tributary flows through the wetland system, thus the wetland system abuts the tributary. Foster Creek flows east through a culvert under Henry E. Brown Jr, Blvd. The abutting wetland system also continues. Foster Creek and the abutting wetland system continue to the south where they are crossed by an unnamed road/crossing. The wetlands and Foster Creek continue to the east where they appear to transition from a freshwater, non-tidal system to a saltwater, tidal system, which is considered an (a)(1) traditionally navigable water. Foster Creek flows into the Back River.</p>
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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
N/A	N/A	N/A	N/A

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:
 - This information is sufficient for purposes of this AJD.
 - Rationale: N/A
- Data sheets prepared by the Corps: September 24, 2020
- Photographs: Google Earth Aerial (1/10/2019)
- Corps Site visit(s) conducted on: September 24, 2020
- Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s).*
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Meggett Clay Loam
- USFWS NWI maps: PFO1Ad
- USGS topographic maps: *Title(s) and/or date(s).*

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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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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.

- B. Typical year assessment(s):** The Antecedent Rainfall Calculator was run for November 1, 2016, January 1, 2019, and September 24, 2020, as explained below. The offsite wetland crossings located at the culverts at Adle Road, Liberty Hall Road and Henry E. Brown, Jr. Blvd were not observed in the field, nor was the tributary, Foster Creek and its crossings (Henry E. Brown, Jr. Blvd and an unnamed crossing). The Google Earth Street Views photos that were utilized for this review are dated November 2016. Water was visible in the street view photos as well as the aerial photographs which were taken January 2019. Therefore, the Antecedent Rainfall Calculator was run for November 1, 2016 and January 1, 2019. The 90-day period before November 1, 2016, was below normal, normal and then above normal. The drought index was mild wetness (PDSI) and it was a wetter than normal year. The Antecedent Rainfall Calculator was also run for January 1, 2019. The 90-day period leading up to January 1, 2019, was below normal, normal and above normal. The Drought Index (PSDI) was normal and it was a wetter than normal year. The Antecedent Rainfall Calculator was also run for September 24, 2020, which was the day of the site visit. The 90-day period before September 24, 2020, was below normal, normal and above normal. The Drought Index (PDSI) was mild wetness and normal conditions existed.
- C. Additional comments to support AJD:** The offsite tributary, Foster Creek, is an (a)(2) tributary. The tributary channel is visible from aerial photographs, Google Earth aerial and street view photos show water is present in the channel, the tributary is named, it appears as a blue line tributary on topographic maps, and it has a large abutting wetland system. For these reasons, the tributary was determined to be an (a)(2) tributary with perennial flow. The tributary and freshwater, non-tidal wetland system transitions into a saltwater, tidal system downstream, which would be considered a traditionally navigable water, which is an (a)(1) water. Foster Creek and its abutting wetlands flow to the Back River, which is also an (a)(1) traditionally navigable water.

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

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