



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):

ORM Number: SAC-2020-01410

Associated JDs: N/A

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

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

Center Coordinates of Review Area: Latitude 33.150833 Longitude -80.044103

**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)<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
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
N/A	N/A	N/A	N/A

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<sup>2</sup> 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.

<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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**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
Non JD Feature 1	3304 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is one of two manmade, parallel swales excavated within uplands, or perhaps created incidentally during the construction of a road feature in the center of the site and does not meet criteria as any category of water. In addition, this swale does not carry water often, likely only after a very heavy rain event as it contains large amounts of pine duff and leaf litter.
Non JD feature 2	3493 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is one of two manmade, parallel swales excavated within uplands, or perhaps created incidentally during the construction of a road feature in the center of the site and does not meet criteria as any category of water. In addition, this swale does not carry water often, likely only after a very heavy rain event as it contains large amounts of pine duff and leaf litter.
Non-JD Wetland 1	0.3 acre	(b)(1) Non-adjacent wetland	This wetland 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).
Non-JD Wetland 2	0.45 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 an excluded water pursuant to (b)(1).
Non-JD Wetland 3	0.08 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 an excluded water pursuant to (b)(1).
Non-JD Wetland 4	0.24 acre	(b)(1) Non-adjacent wetland	This wetland 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.

  X   Information submitted by, or on behalf of, the applicant/consultant: *JD Package dated October 13, 2020 provided by Passarella & Associates Inc. which includes a description of the*

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*property, description of the aquatic features, aerial, quad sheet, LiDAR imagery, data points, photographs, WETS Table and Antecedent Precipitation Tool results, and data sheets.*

This information is sufficient for purposes of this AJD.

Rationale: N/A.

- \_\_\_ Data sheets prepared by the Corps: *Title(s) and/or date(s).*
- Photographs: *Google Images 2003, 2005, 2006. Aerial Image 1963, Berkeley County Sheet 5 of 9 USC University Libraries (<https://digital.tcl.sc.edu/digital/collection/scai/id/373/rec/8>) accessed 10/20/2020*
- \_\_\_ Corps Site visit(s) conducted on: *Date(s).*
- \_\_\_ 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: *SAC Regulatory Viewer- NRCS SSURGO Map Service*
- USFWS NWI maps: *SAC Regulatory Viewer-USFWS NWI Map Service*
- USGS topographic maps: *SAC Regulatory Viewer USGS 7.5 Minute Quad.*

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

Data Source (select)	Name and/or date and other relevant information
USGS Sources	<i>SAC Regulatory Viewer- USGS 3D Elevation Program (#DEP) Map Service, National Hydrography Dataset (NHD)</i>
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):** *Provided by Passarella & Associates: Meteorological conditions during the site evaluation and completion of the COE wetland determination data forms, conducted on July 16, 2020, included clear to overcast conditions with scattered rain and temperatures in the mid-80s to low 90s. Regional rainfall data obtained from the National Weather Service North Charleston station is attached for reference. Rainfall through the site review on July 16, 2020 totaled 1.84 inches. The most recent full month prior to the site review (June 2020) had a total of 5.2 inches of rainfall, which was approximately 0.38 inch below normal for the years 1971 through 2000 based upon the Natural Resources Conservation Service WETS table for Berkeley County (attached). Per the COE Antecedent Precipitation Tool (APT), the site visit was conducted under Normal Conditions and rainfall totals are as expected for a typical year.*

**C. Additional comments to support AJD:**

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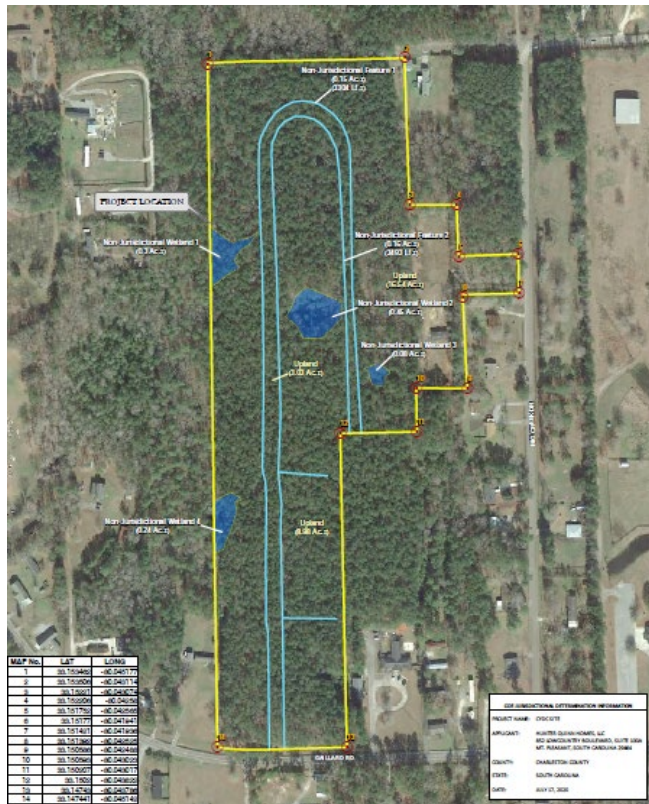
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The two parallel swales, in the shape of a cane are on-site and were constructed in uplands. These features do not carry water on a regular basis, likely only flowing or holding water after a heavy rain. The shape of the swales, and the current condition (consisting of a shallow feature filled with pine straw and leaf litter) support the conclusion that



these were likely formed as a result of the construction of a roadbed. The roadbed appears in 1963 Aerial Imagery (left).

The wetlands onsite do not connect to an a(1) – a(3) water. Lidar imagery, as well as topo maps and the USGS

National Hydrography Dataset do not indicate any tributary on the site that could be considered an

a(2) water which could allow for a hydrologic connection to downstream jurisdictional waters.

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