



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): 1-SEP-2020
ORM Number: SAC-2020-00358
Associated JDs: N/A
Review Area Location¹: southeast of the intersection of Chester Lane and Bear Bluff Road.
State: SC City: Conway County: Horry County
Center Coordinates of Review Area: Latitude 33.8546 Longitude -78.8807

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
N/A	N/A	N/A	N/A

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Excluded Water 1 Pond	0.5 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)	Pond 1 is constructed wholly in uplands and does not contribute flow to an (a)(1)-(3) water.
Excluded Water 2 Pond	0.8 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)	Pond 2 is constructed wholly in uplands and does not contribute flow to an (a)(1)-(3) water.
Excluded Water 3 Wetland	1.19 acres	(b)(1) Non-adjacent wetland	Excluded water 3 (wetland) does not abut and is not inundated by an (a)(1)-(3) water. Additionally, this wetland is physically separated from an (a)(1)-(3) water by multiple physical, man-made barriers (berms, roads, etc.). The wetland continues offsite to the west where it is physically separated from the nearest (a)(1)-(3) water by natural an upland area and multiple roads (named and unnamed). Since the wetland does not abut an (a)(1)-(3) water, is not inundated by an (a)(1)-(3) water, and is physically separated by more than a single artificial barrier, it was determined to be non-adjacent, and, thus, non-jurisdictional.
Excluded Water 4 Ditch	1383 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)	Excluded water 4 (Ditch) is partially located in uplands and partially excavated from wetlands within the review area but does not meet the criteria of a jurisdictional water based on the following: The feature is neither naturally occurring, a diversion of a tributary, nor constructed within the boundaries of an adjacent wetland and, therefore, does not meet the criteria of a tributary as outlined in (c)(12). Although the ditch in the review area does bisect the onsite wetland (excluded water 3), this specific wetland does not satisfy the requisite adjacency criteria to be an (a)(4) water itself and, therefore, the ditch also cannot satisfy requisite jurisdictional criteria as a tributary (a)(2) water.
Excluded Water 5 Ditch	660 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)	Excluded water 5 (Ditch) is partially located in uplands and partially excavated from wetlands within the review area but does not meet the criteria of a jurisdictional water based on the following: The feature is neither naturally occurring, a diversion of a tributary, nor constructed within the boundaries of an adjacent wetland and, therefore, does not meet the criteria of a tributary as outlined in (c)(12). Although the ditch in the review area does bisect the onsite wetland (excluded water 6), this specific wetland does not satisfy the requisite adjacency criteria to be an (a)(4) water itself

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			and, therefore, the ditch also cannot satisfy requisite jurisdictional criteria as a tributary (a)(2) water
Excluded Water 6 Wetland	9.14 acres	(b)(1) Non-adjacent wetland	Excluded water 6 (wetland) does not abut and is not inundated by an (a)(1)-(3) water. Additionally, this wetland is physically separated from an (a)(1)-(3) water by multiple physical, man-made barriers (natural uplands, ditch banks, roads, etc.). The wetland continues offsite to the east where it is physically separated from the nearest (a)(1)-(3) water by multiple named and unnamed roads as well as a series of upland excavated ditches. While the continuation of the wetland does drain into the off-site ditch system, the drainage network does not meet the criteria of an (a)(1)-(3) water. Since this wetland does not abut an (a)(1)-(3) water, is not inundated by an (a)(1)-(3) water and is physically separated by more than a single artificial barrier, excluded water 6 is non-adjacent, and thus, non-jurisdictional.

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: *Title(s) and date(s):* **"Bear Bluff Tract (50.56 +/- acres)"** submittal by Southern Palmetto Environmental dated **March 4, 2020.**

This information (*is*) sufficient for purposes of this AJD.

Rationale: **Wetland data forms and information included in the original submittal are considered to be a reasonable representation of site conditions at the time of collection with the exception of NWI maps. (Agent's NWI maps were out of date / updated NWI maps added to administrative record).**

Data sheets prepared by the Corps: *Title(s) and/or date(s).*

Photographs: (*aerial and other*) *Title(s) and/or date(s).* **2019 Google Earth Imagery / USGS National Map 3D Elevation Program (3DEP),**

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: *Title(s) and/or date(s).* **NRCS / Soil Survey Geographic Database (SSURGO) map service dated April 4, 2019, updated March 4, 2020 / depicts the following soil types of Yemassee, Yauhannah, Yonges, Bladen, and Ogeechee (all hydric). Soil Survey & CIR (2006)(Applicant's submittal)**

USFWS NWI maps: *Title(s) and/or date(s).* **USFWS NWI - Wetlands Raster REST map service dated May 29, 2012, updated July 17, 2020 depict upland portions and wetlands, NWI Map (Applicant's submittal)**

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x USGS topographic maps: ***Title(s) and/or date(s). Nixonville Quad / 7.5 Minute Index / 1:24000 / Topo map depicts a mixture of forested and non-forested undeveloped land with no wetland symbology. Two ponds are depicted on the topo map which appear to be constructed in upland areas.***

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
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	USACE-SAC Regulatory Viewer – accessed August 25, 2020
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): Antecedent Precipitation Tool (APT) data for typical year determination was calculated based on field collection data denoted on the originally included wetland delineation data forms (February 28, 2020). Output from the APT indicated "Wetter than Normal Conditions" at the time of data collection by the agent (Southern Palmetto Environmental) with a value of 17. ATP outputs with a condition value greater than 14 indicate "wetter than normal" conditions, "normal" conditions range from 10-14, and values less than 10 are considered "drier than normal". For this assessment, the APT tool pulled data from 8 weather stations within an approximate radius of 22 miles. Results of the APT indicate the site visit was conducted outside of conditions considered by the Corps to be within a "typical year". However, even under the elevated hydrologic conditions indicated by the APT output, the waters onsite remain non-jurisdictional.

Additional comments to support AJD: The area in review contains approximately 50.56 acres and includes six excluded waters. A review of topographic and LiDAR maps indicates that the site is geographically situated at a higher elevation than the nearest jurisdictional waters (figure 1 below). Excluded waters 3 & 6 (wetlands) continue offsite but are eventually encompassed by uplands and lack a direct or indirect surface connection to (a)(1)-(3) waters. Excluded waters 1 & 2 (ponds) are constructed wholly in uplands and meet the criteria set forth in (b)(8) for excluded waters. Excluded waters 4 & 5 (ditches) are primarily excavated from uplands with a portion of their lengths bisecting non-jurisdictional onsite wetlands. Neither ditch 4 nor 5 meet the criteria of a tributary as outlined in (c)(12). Based on the above information, all waters on this site were determined to be excluded waters.

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