



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): September 28, 2020

ORM Number: SAC-2020-00399

Associated JDs: N/A

Review Area Location¹:

State: SC City: Ridgeway County: Fairfield County

Center Coordinates of Review Area: Latitude 34.2742 Longitude -81.0066

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
Jurisdictional Tributary A	1131 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Tributary A is a naturally occurring surface water channel that contributes perennial surface water flow to the Congaree River (TNW) in a typical year through Cedar Creek. Based on a review of photographs submitted by the consultant, LiDAR and other maps, Jurisdictional Tributary A flows to Jurisdictional Impoundment B, which flows through an embankment via a riser structure that discharges to Jurisdictional Tributary B, which flows to Jurisdictional Tributary C (Cedar Creek), which flows to Big Cedar Creek, which flows to the Broad River, which flows to the Congaree River. The embankment of Jurisdictional

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.



**U.S. ARMY CORPS OF ENGINEERS
 REGULATORY PROGRAM
 APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
 NAVIGABLE WATERS PROTECTION RULE**

			<p>Impoundment B does not sever the jurisdictional status of Jurisdictional Tributary A because a riser structure discharges to Jurisdictional Tributary B and provides a direct hydrologic surface water connection to the Congaree River in a typical year. Site photographs submitted by the consultant show that Jurisdictional Tributary A has strong flow in a distinct channel. Jurisdictional Tributary A is shown as a distinct channel on the LiDAR map and is depicted as a blue line on the USGS topographic map and the NWI map. Therefore, the Corps has determined this tributary to be an (a)(2) water of the U.S.</p>
Jurisdictional Tributary B	922 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	<p>Jurisdictional Tributary B is a naturally occurring surface water channel that contributes perennial surface water flow to the Congaree River (TNW) in a typical year through Jurisdictional Tributary C (Cedar Creek). Based on a review of photographs submitted by the consultant, LiDAR and other maps, Jurisdictional Tributary B flows to Jurisdictional Tributary C (Cedar Creek), which flows to Big Cedar Creek, which flows to the Broad River, which flows to the Congaree River. Jurisdictional Tributary B is shown as a distinct channel on the LiDAR map and is depicted as a blue line on the USGS topographic map and the NWI map. Therefore, the Corps has determined this tributary to be an (a)(2) water of the U.S.</p>
Jurisdictional Tributary C	4642 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	<p>Jurisdictional Tributary C (Cedar Creek) is a naturally occurring surface water channel that contributes perennial surface water flow to the Congaree River (TNW) in a typical year through Big Cedar Creek. Based on a review of photographs submitted by the consultant, LiDAR and other maps, Jurisdictional Tributary C (Cedar Creek) flows to Big Cedar Creek, which flows to the Broad River, which flows to the Congaree River. Jurisdictional Tributary C is shown as a distinct channel on the LiDAR map and is depicted as a blue line on the USGS topographic map and the NWI map. Therefore, the Corps has determined this tributary to be an (a)(2) water of the U.S.</p>

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
Jurisdictional Impoundment A	13.72 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	<p>Based on a review of LiDAR and other maps, Jurisdictional Impoundment A is an impoundment of an off-site tributary and contributes surface water flow to the Congaree River (TNW) in a typical year through Cedar Creek. Based on a review of photographs submitted by the consultant, LiDAR and other maps, Jurisdictional Impoundment A flows through an embankment via a riser structure that discharges to Jurisdictional Impoundment B, which flows through an embankment via a riser structure that discharges to</p>

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

			Jurisdictional Tributary B, which flows to Jurisdictional Tributary C (Cedar Creek), which flows to Big Cedar Creek, which flows to the Broad River, which flows to the Congaree River. Therefore, the Corps has determined Jurisdictional Impoundment A to be an (a)(3) water of the U.S. Additional discussion is provided below in Section III.
Jurisdictional Impoundment B	34.54 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Jurisdictional Impoundment B is an impoundment of Jurisdictional Tributary A, as discussed above. Jurisdictional Impoundment B contributes surface water flow to the Congaree River (TNW) in a typical year through Cedar Creek. Jurisdictional Impoundment B also receives drainage from Jurisdictional Impoundment A via a riser structure. Based on a review of photographs submitted by the consultant, LiDAR and other maps, Jurisdictional Impoundment B flows through an embankment via a riser structure that discharges to Jurisdictional Tributary B, which flows to Jurisdictional Tributary C (Cedar Creek), which flows to Big Cedar Creek, which flows to the Broad River, which flows to the Congaree River. Therefore, the Corps has determined Jurisdictional Impoundment B to be an (a)(3) water of the U.S.

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Jurisdictional Wetland A	1.16 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland A abuts the ordinary high water mark (OHWM) of Jurisdictional Tributary A, an (a)(2) water as discussed above. Therefore, the Corps has determined the wetland to be an (a)(4) water of the U.S.
Jurisdictional Wetland B	0.42 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland B abuts the OHWM of Jurisdictional Tributary A, an (a)(2) water as discussed above. Therefore, the Corps has determined the wetland to be an (a)(4) water of the U.S.
Jurisdictional Wetland C	2.76 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland C abuts the OHWM of Jurisdictional Tributary A, an (a)(2) water, and Jurisdictional Impoundment B, an (a)(3) water, as discussed above. Therefore, the Corps has determined the wetland to be an (a)(4) water of the U.S.
Jurisdictional Wetland D	0.92 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland D abuts the OHWM of Jurisdictional Tributary A, an (a)(2) water, and Jurisdictional Impoundment B, an (a)(3) water, as discussed above. Therefore, the Corps has determined the wetland to be an (a)(4) water of the U.S.
Jurisdictional Wetland E	0.99 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland E abuts Jurisdictional Impoundment A, an (a)(3) water, as discussed above. Therefore, the Corps has determined the wetland to be an (a)(4) water of the U.S.
Jurisdictional Wetland F	0.04 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland F abuts the OHWM of Jurisdictional Tributary B, an (a)(2) water, as discussed above. Therefore, the Corps has determined the

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

			wetland to be an (a)(4) water of the U.S.
--	--	--	---

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Excluded Water C (b)(8)	0.61 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 Water C (b)(8) is constructed wholly in an area determined to be uplands by this approved jurisdictional determination. The area did not meet all three wetland criteria, and the location of the pond is outside the OHWM of a jurisdictional water. Therefore, the Corps has determined the pond to be situated in uplands and an excluded water.
Excluded Water D (b)(8)	0.99 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 Water D (b)(8) is constructed wholly in an area determined to be uplands by this approved jurisdictional determination. The area did not meet all three wetland criteria, and the location of the pond is outside the OHWM of a jurisdictional water. Therefore, the Corps has determined the pond to be situated in uplands and an excluded water.
Excluded Water E (b)(8)	0.57 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 Water E (b)(8) is constructed wholly in an area determined to be uplands by this approved jurisdictional determination. The area did not meet all three wetland criteria, and the location of the pond is outside the OHWM of a jurisdictional water. Therefore, the Corps has determined the pond to be situated in uplands and an excluded water.
Excluded Water F (b)(8)	0.21 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 Water F (b)(8) is constructed wholly in an area determined to be uplands by this approved jurisdictional determination. The area did not meet all three wetland criteria, and the location of the pond is outside the OHWM of a jurisdictional water. Therefore, the Corps has determined the pond to be situated in uplands and an 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: Wood Environmental and Infrastructure, Inc., “Averyt Tract” dated March 16, 2020, and amended August 7, 2020, and September 25, 2020.

This information is sufficient for purposes of this AJD.

Rationale: The Corps agrees with the conclusions of the submitted data sheets and report.

Data sheets prepared by the Corps: N/A

Photographs: (aerial and other) ESRI Aerial Basemap provided by the consultant dated December 30, 2019; and site photographs 1-30 of 30 from the consultant dated December 5, 2019) / USGS National Map 3D Elevation Program (3DEP) published July 30, 2020.

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

- Corps Site visit(s) conducted on: N/A
- Previous Jurisdictional Determinations (AJDs or PJDs): N/A
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: NRCS / Soil Survey Geographic Database (SSURGO) Map Service, January 2, 2020.
- USFWS NWI maps: ESRI National Wetland Inventory provided by the consultant dated December 30, 2019.
- USGS topographic maps: 1:24,000, Ridgeway Quad

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	SAC Regulatory Viewer accessed July 30, 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 dates (November 20, 2019 and December 5, 2019) in the report submitted by the consultant. Output from the APT indicated “Normal” conditions with a value of 11 during a period of “Normal” (November 20, 2019) and also during a period of “Incipient wetness” (December 5, 2019) in the Wet Season.
- C. Additional comments to support AJD:** The review area covers 389.35 acres and includes three (a)(2) waters, two (a)(3) waters, six (a)(4) waters, and four excluded (b)(8) waters.

Jurisdictional Tributary A, Jurisdictional Tributary B, and Jurisdictional Tributary C are perennial (a)(2) waters, each with strong flow in distinct, naturally occurring channels observed during the consultant’s site visits.

Jurisdictional Impoundment A is an impoundment of an off-site tributary that meets the criteria of an (a)(2) water. The off-site tributary is shown as a distinct, naturally occurring channel on aerial photographs, a LiDAR map, and is depicted as a blue line on the USGS topographic map and the NWI map. Based on a review of all available information, the off-site tributary provides perennial flow to the Congaree River (TNW) in a typical year through the flow path described in Section II.C. for Jurisdictional Impoundment A.

Jurisdictional Impoundment B is an impoundment of Jurisdictional Tributary A, an (a)(2) water, and contributes surface water flow to the Congaree River (TNW) in a typical year.

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

Jurisdictional Wetland A, Jurisdictional Wetland B, Jurisdictional Wetland C, and Jurisdictional Wetland D each abut the OHWM of Jurisdictional Tributary A, satisfying the adjacency criteria for (a)(4) waters. Jurisdictional Wetland E abuts Jurisdictional Impoundment A, making it an (a)(4) water. Jurisdictional Wetland F abuts Jurisdictional Tributary B, making it an (a)(4) water.

Excluded Water C (b)(8), Excluded Water D (b)(8), Excluded Water E (b)(8), and Excluded Water F (b)(8) are constructed wholly in uplands, making them excluded (b)(8) waters.

There are several linear features on site that were evaluated and determined to be non-aquatic resources. These features lacked OHWM indicators, lacked the three wetland parameters to meet the wetland definition, and do not lie below the OHWM or the high tide line of a jurisdictional water. These features are not considered waters of the U.S. and are not included with the exclusions because they are not considered to be aquatic resources.

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.