



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): 11-SEP-2020

ORM Number: SAC-2020-00573

Associated JDs: SAC-2006-00565; SAC-2011-00671; SAC-2012-00948

Review Area Location¹:

State: SC City: Marion County: Marion County

Center Coordinates of Review Area: Latitude 34.1973 Longitude -79.3484

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). N/A.
- 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
Jurisdictional Impoundment 1	0.36 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 1 was determined to have been excavated out of a wetland system that directly abuts an (a)(2) tributary. The NWI maps this impoundment and the wetland system as palustrine forested wetlands. The soil survey maps this area as Coxville, a hydric soil. This impoundment was determined to contribute surface water flow to the

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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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			downstream jurisdictional water via a natural spillway. Therefore, Impoundment 1 was determined to be jurisdictional.
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Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Jurisdictional Wetland 1	40.25 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Jurisdictional Wetland 1 was determined to directly abut an (a)(2) tributary, which is located offsite. According to the topographic map, this (a)(2) tributary is named Smith Swamp and is depicted as a blue line surrounded by wetlands. The soil survey depicts this wetland and the offsite (a)(2) tributary as Coxville, Rutledge, and Johnston, which are hydric soils. The NWIs map this wetland system as palustrine wetlands (PFO4Bd, PFO1Fb, and PSS1/EM1Fb).

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Excluded Water Ditch T2	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 Ditch T2 was determined to be a non-jurisdictional ditch. This feature is depicted on the aerials; however, it is not depicted on the topographic map. The soil survey maps this feature as Varina fine sandy loam, which is not a hydric soil, and the NWIs map this feature as uplands. Therefore, Ditch T2 was determined to be a man-made ditch excavated out of uplands.
Excluded Water Ditch T3	1800 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)	Although Excluded Water Ditch T3 is depicted as a blue line on the topographic map, it was determined to not be a naturally occurring feature nor does it replace or relocate a tributary. Although the NWIs depict wetlands adjacent to this ditch, no wetlands are located abutting this ditch based on the delineation submitted by the agent. The soil survey maps the majority of this ditch as excavated from Dunbar loamy sand, which has hydric inclusions. Ditch T2 was determined to be constructed out of uplands on site and provides drainage for the surrounding uplands on site.
Excluded Water Ditch T4	30 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 Ditch T4 was determined to be a non-jurisdictional ditch. This feature is not depicted on the topographic map and is mapped uplands on the NWIs. The soil survey maps this feature as Varina fine sandy loam, which is not a hydric soil. Therefore, Ditch T4 was determined to be a man-made ditch excavated out of uplands.
Excluded Water Ditch T5	1140 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)	Although Excluded Water Ditch T5 is depicted as a straight linear feature on the aerials, it is not depicted on the topographic map. The soil survey maps location of this ditch as Dunbar soils, which has hydric inclusions. The NWIs depict this feature as being located wholly within uplands. Although Ditch T5

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			intersects an onsite wetland (Excluded Water W3), this wetland was determined to be non-jurisdictional. Ditch T5 was determined to not be a naturally occurring feature nor replace or relocate a tributary; therefore, Ditch T5 was determined to be non-jurisdictional.
Excluded Water Ditch T6	1800 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 Ditch T6 was determined to be a non-jurisdictional ditch. This feature is not depicted on the topographic maps; however, it is mapped Coxville, a hydric soil, on the soil survey and palustrine forested wetlands on the NWIs. Although a portion of this feature is located within a wetland on site, the wetland intersected by this feature was determined to be an excluded water (Excluded Water Wetland W4). This feature was determined to be man-made and does not replace or relocate a tributary.
Excluded Water Ditch T7	300 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 Ditch T7 is depicted as a blue line on the topographic map and is depicted as a straight linear feature on the USGS 3DEP imagery. The NWI maps this feature as palustrine wetlands (PSS1Bd), and the soil survey maps this feature as Coxville, a hydric soil. This feature is not depicted on the SC Streamlines data in USACE Arc Viewer, and based on information submitted by the agent, the entire length of Ditch T7 is located within uplands. Therefore, this feature was determined to have been excavated out of uplands and drains only uplands. Ditch T7 was determined to be non-jurisdictional.
Excluded Water Pond 2	5.4 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 Pond 2 was determined to be a non-jurisdictional pond that was excavated wholly out of uplands on site. The topographic map does not depict this pond and depicts the area as cleared uplands. The NWI depicts this pond as PUBHx, and the area surrounding the pond is mapped uplands. The soil survey maps this pond and the surrounding area as Pocalla sand, which is not hydric, and Duplin, which has hydric inclusions. Based on a review of this information, Pond 2 was determined to have been an artificial pond that was wholly constructed out of uplands and, therefore, an excluded water.
Excluded Water Pond 3	0.16 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 Pond 3 is depicted on the NWI as uplands, and this feature is not depicted on the topographic map. According to the soil survey, this area is mapped Dunbar, which is a non-hydric soil with hydric inclusions. Pond 3 was determined to be an artificial pond constructed wholly out of uplands. Therefore, Pond 3 is an excluded water.
Excluded Water Pond 4	1.6 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)	Based on a review of the aeriels, Pond 4 was constructed sometime between 30 Jan 2015 and 31 Oct 2017. A previous JD issued for this site that encompassed this area found no wetlands or other aquatic resources in this area (SAC-2012-00948, letter dated 12 Jun 2013). Information submitted by the agent reflect similar conditions for the site as previously

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			documented. Therefore, Pond 4 was determined to be an artificial pond constructed wholly out of uplands and, therefore, an excluded water.
Excluded Water Pond 5	0.5 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)	Based on a review of the aerials, Pond 5 was constructed sometime between 30 Jan 2015 and 31 Oct 2017. A previous JD issued for this site that encompassed this area found no wetlands or other aquatic resources in this area (SAC-2012-00948, letter dated 12 Jun 2013). Information submitted by the agent reflect similar conditions for the site as previously documented. Therefore, Pond 5 was determined to be an artificial pond wholly constructed out of uplands and, therefore, an excluded water.
Excluded Water Pond 6	0.3 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)	Based on a review of the aerials, Pond 6 was constructed sometime between 30 Jan 2015 and 31 Oct 2017. A previous JD issued for this site that encompassed this area found no wetlands or other aquatic resources in this area (SAC-2012-00948, letter dated 12 Jun 2013). Information submitted by the agent reflect similar conditions for the site as previously documented. Therefore, Pond 6 was determined to be an artificial pond constructed wholly out of uplands and, therefore, an excluded water.
Excluded Water Wetland 2	0.39 acres	(b)(1) Non-adjacent wetland	Excluded Water Wetland 2 was determined to be non-jurisdictional because it does not abut nor is it inundated by an (a)(1) – (a)(3) water. This wetland does not intersect any linear features on or off site, according to the aerials, topographic map, and USGS 3DEP. Based on the NWIs, Wetland 2 is surrounded by uplands. Therefore, this wetland was determined to be isolated and an excluded water.
Excluded Water Wetland 3	0.06 acres	(b)(1) Non-adjacent wetland	Excluded Water Wetland 3 is located adjacent to Excluded Water Ditch T5; however, Ditch T5 does not meet the criteria of an (a)(1)-(a)(3) water. The NWIs depict this wetland and the surrounding area as uplands, and the soil survey maps this area as Dunbar, which is a non-hydric soil with hydric inclusions. Because Wetland 3 was determined to not abut or be inundated by an (a)(1) – (a)(3) water, it is an excluded water.
Excluded Water Wetland 4	6.65 acres	(b)(1) Non-adjacent wetland	Although the topographic map depicts a blue line adjacent to Excluded Water Wetland 4 that continues southeast into Smith Swamp, this blue line does not exist at this location according to aerials, information submitted by the agent, and previous JDs. A non-jurisdictional ditch (Excluded Water Ditch T6) is located within Wetland 4; however, this drainage feature does not meet the criteria of an (a)(1)-(a)(3) water. Additionally, Wetland 4 does not abut nor is it inundated by an (a)(1)-(a)(3) jurisdictional water. Therefore, Wetland 4 was determined to be non-jurisdictional.

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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: *AJD Request submitted by ECS Southeast, LLP, on behalf of Marion County Economic Development on 16 Apr 2020.*

This information is sufficient for purposes of this AJD.

Rationale: The wetland data forms and information submitted by the agent are considered to be a reasonable representation of site conditions at the time of collection and are sufficient for purposes of this AJD.

Data sheets prepared by the Corps: *N/A.*

Photographs (*aerial and other*): *Photographs submitted by the agent dated 5 Mar 2020. Google Earth aerials dated 24 May 2013, 30 Jan 2015, 31 Oct 2017, and 21 Sep 2018.*

Corps Site visit(s) conducted on: *N/A.*

Previous Jurisdictional Determinations (AJDs or PJDs): *SAC-2006-00565 (Letter dated 11 Apr 2006), SAC-2011-00671 (Letter dated 17 Nov 2011), and SAC-2012-00948 (Letter dated 12 Jun 2013).*

Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*

USDA NRCS Soil Survey: *NRCS Soil Survey Geographic Database (SSURGO) Map Service created 4 Apr 2019 and updated 26 Aug 2020. The site consists of Rutledge loamy sand, Duplin fine sandy loam, Varina fine sandy loam, Johnston, Brogdon sand, Pocalla sand, Goldsboro loamy fine sand, Dothan loamy fine sand, and Coxville fine sandy loam. Rutledge, Johnston, and Coxville are hydric soils.*

USFWS NWI maps: *USFWS NWI - Wetlands Raster REST Map service dated May 29, 2012 and updated on July 17, 2020. According to the NWIs, the northern and eastern portions of this site are predominately mapped wetlands (PFO4Bd, PSS1Bd, PFO1Fb, and PSS1/EM1Fb), and the southern and southwestern portions of the tract are predominately uplands.*

USGS topographic maps: *USGS Topographic Map / 7.5 Minute Index / Mullins Quad. The topographic map depicts this site as uplands with a blue line stream named Smith Swamp located east of the site.*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS 3DEP and USGS Topographic Map.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	SAC Regulatory Viewer accessed on 31 Aug 2020.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

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- B. Typical year assessment(s):** Antecedent Rainfall Calculator data for typical year determination was calculated based on the field collection date provided by the agent (5 Mar 2020). The Antecedent Rainfall Calculator data showed “wetter than normal” conditions at the time of data collection by the agent with a condition value of 16, which indicates that typical year hydrologic conditions may not be present. For this assessment, five weather stations within a 22-mile radius were used. Even though site conditions for the date of the data forms do not represent typical year hydrologic conditions and flow regimes, the status for both jurisdictional features and excluded waters remains unchanged.
- C. Additional comments to support AJD:** The project site, which consists of 295 acres, includes two jurisdictional waters and fourteen excluded waters. Jurisdictional Wetland 1 was determined to directly abut an (a)(2) tributary named Smith Swamp, and Jurisdictional Impoundment 1 was determined to have been excavated out of a portion of Jurisdictional Wetland 1 with a documented contribution of surface water flow to a downstream (a)(2) water. There are six excluded ditches on site, which were determined to be non-jurisdictional. These excluded ditches were excavated on site and were not naturally occurring features, did not replace or relocate a tributary, and did not originate in adjacent wetlands. The six excluded ponds on site were determined to be man-made out of uplands and were surrounded by uplands; therefore, they were determined to be non-jurisdictional. Additionally, the site contains three excluded wetlands. All three wetlands were determined to not connect to an (a)(1) – (a)(3) water and are non-jurisdictional.

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