



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): August 4, 2021
ORM Number: SAS-2021-00381
Associated JDs: N/A
Review Area Location¹:
State/Territory: GA City: County/Parish/Borough: DeKalb County
Center Coordinates of Review Area: Latitude 33.803486 Longitude -84.10776

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)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
Perennial Stream	268 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The feature is observed to have surface water flow continuously year-round due to its connection to groundwater sources. It provides an indirect surface water connection to a downstream (a)(1) water.

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

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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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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Ephemeral Swale	269 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature has a discontinuous bed and bank, and discontinuous ordinary high-water mark. The feature flows only in direct response to precipitation.

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: *PJD Submittal dated May 12, 2021.*
This information (*is not*) sufficient for purposes of this AJD.
Rationale: *Limited information was documented in the request necessitating a site visit.*
- Data sheets prepared by the Corps: *Title(s) and/or date(s).*
- Photographs: *Aerial and Site Photographs dated July 12, 2021.*
- Corps Site visit(s) conducted on *July 12, 2021.*
- 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: *Online soil mapper accessed October 9, 2020.*
- USFWS NWI maps: *NWI Online Mapper accessed April 9, 2021.*
- USGS topographic maps: *NWI Online Mapper accessed April 9, 2021.*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Stream Stats.
USDA Sources	N/A.
NOAA Sources	Lidar.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	FEMA FIRM panel

B. Typical year assessment(s): The APT indicated normal conditions on April 9, 2021, June 4, 2021 and July 12, 2021 and wetter than normal conditions on October 9, 2020. This provides a high level of confidence in the accuracy of the assessment of the aquatic resources in regard to flow regimes since the site was visited during different climatic conditions.

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- C. Additional comments to support AJD:** A site visit was performed by the Corps to verify the jurisdictional status of the resources on site on July 12, 2021. Site visit targeted the evaluation of on-site excluded feature to determine/confirm its exclusion status under NWPR guidance. General areas surrounding the proposed excluded “drainage ditch” were inspected to evaluate the consultant’s delineation of these specific on-site aquatic resources. A swale enters the project site along its western property line. The swale originates just off site and appears to collect drainage from two upstream residences. The swale was observed to have a discontinuous bed and bank. An ordinary high-water mark was not observed continuously. The bed of the swale contains large moss-covered rocks in some areas. It is clear that water flows through the swale. Deposition of pine straw was observed with other debris along and within the banks of the swale in some locations. No baseflow was observed. Soils within the bed of the swale were indicative of uplands with a color noted of 5 YR 5/8. The topography surrounding the swale is moderately sloped and there is a natural valley in this area. The swale continues in this fashion until it reaches the point of a head cut, downstream of which baseflow was observed. It was determined that the ephemeral swale meets the definition of a (b)(3) exclusion. The location of the perennial stream was verified, and the feature was determined to be a jurisdictional (a)(2) tributary. This feature begins below the observed head-cut. This feature had a continuous bed and bank, baseflow, riffle-pool structure, iron-oxidizing bacteria, and a soil-based evidence of a high-water table. Crayfish burrows and tadpoles were noted in this stream.

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