



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): 15-DEC-2020

ORM Number: SAS-2020-00539

Associated JDs: N/A

Review Area Location¹:

State/Territory: GA City: County/Parish/Borough: Fulton County

Center Coordinates of Review Area: Latitude 34.034096 Longitude -84.146464

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
STR-1	3203 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	STR-1 is a tributary that flows directly into the Chattahoochee River just off the southern portion of the project site.
STR-2	2211 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	STR-2 is a tributary that flows directly into Cauley Creek (STR-1), which flows into the Chattahoochee River.

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
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N/A	N/A	N/A	N/A
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Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
WTL-11	0.85 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water in a typical year	WTL-11 has been previously impacted and there are culverts off the linear leg of the wetland where it abuts STR-1 and there is a direct hydrological connection between WTL-11 and STR-1. Flow from the wetland would enter STR-1 and then the Chattahoochee River.
WTL-14	0.63 acres	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year	WTL-14 is inundated by flooding via a linear fingers off of the wetland that flow directly into STR-2.
WTL-15	0.02 acres	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year	WTL-15 is inundated by flooding by STR-2.
WTL-16	1 acre	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year	WTL-16 is inundated by flooding by STR-2.
WTL-17	2.81 acres	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year	WTL-17 is inundated by flooding by STR-2.
WTL-18	0.39 acres	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year	WTL-18 is inundated by flooding by STR-2.
WTL-19	0.03 acres	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year	WTL-19 is inundated by flooding by STR-1.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
EPH-1	422 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	EPH-1 does not meet the criteria for an (a)(2) tributary and does not have perennial or intermittent flow. The feature appears to flow for only a short period after rain events.
EPH-2	332 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	EPH-2 does not have a define bed and bank and has no ordinary high-water mark. The feature appears to flow for only a short period after rain events.
P-1	0.8 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)	P-1 has no outlet and is not in an impoundment of any (a)(1) – (a)(3) waters. This open-water feature appears to have been constructed entirely in dry land and impounds stormwater after rain events.
P-2	1.07 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	P-2 has no outlet and is not an impoundment of any (a)(1) – (a)(3) waters. This open-water feature appears to have been constructed entirely in dry land and impounds stormwater after rain events.

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		an impoundment of a jurisdictional water that meets (c)(6)	
P-3	6.19 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)	P-3 has no outlet and is not an impoundment of any (a)(1) – (a)(3) waters. This open-water feature appears to have been constructed entirely in dry land and impounds stormwater after rain events and was originally constructed as part of the adjacent business.
WTL-1	0.03 acres	(b)(1) Non-adjacent wetland	WTL- 1 is not adjacent to or hydrologically connected to any (a)(1) – (a)(3) waters and is not inundated by flooding of any (a)(1) – (a)(3) waters.
WTL-10	0.21 acres	(b)(1) Non-adjacent wetland	WTL- 10 is not adjacent to or hydrologically connected to any (a)(1) – (a)(3) waters and is not inundated by flooding of any (a)(1) – (a)(3) waters.
WTL-12	0.06 acres	(b)(1) Non-adjacent wetland	WTL- 12 is not adjacent to or hydrologically connected to any (a)(1) – (a)(3) waters and is not inundated by flooding of any (a)(1) – (a)(3) waters.
WTL-13	0.49 acres	(b)(1) Non-adjacent wetland	WTL- 13 is not adjacent to or hydrologically connected to any (a)(1) – (a)(3) waters and is not inundated by flooding of any (a)(1) – (a)(3) waters.
WTL-2	0.07 acres	(b)(1) Non-adjacent wetland	WTL- 2 is not adjacent to or hydrologically connected to any (a)(1) – (a)(3) waters and is not inundated by flooding of any (a)(1) – (a)(3) waters.
WTL-3	0.64 acres	(b)(1) Non-adjacent wetland	WTL- 3 is not adjacent to or hydrologically connected to any (a)(1) – (a)(3) waters and is not inundated by flooding of any (a)(1) – (a)(3) waters.
WTL-4	0.1 acres	(b)(1) Non-adjacent wetland	WTL- 4 is not adjacent to or hydrologically connected to any (a)(1) – (a)(3) waters and is not inundated by flooding of any (a)(1) – (a)(3) waters.
WTL-5	2.09 acres	(b)(1) Non-adjacent wetland	WTL- 5 is not adjacent to or hydrologically connected to any (a)(1) – (a)(3) waters and is not inundated by flooding of any (a)(1) – (a)(3) waters.
WTL-6	0.03 acres	(b)(1) Non-adjacent wetland	WTL- 6 is not adjacent to or hydrologically connected to any (a)(1) – (a)(3) waters and is not inundated by flooding of any (a)(1) – (a)(3) waters.
WTL-7	1 acre	(b)(1) Non-adjacent wetland	WTL- 7 is not adjacent to or hydrologically connected to any (a)(1) – (a)(3) waters and is not inundated by flooding of any (a)(1) – (a)(3) waters.
WTL-8	6 acres	(b)(1) Non-adjacent wetland	WTL- 8 is not adjacent to or hydrologically connected to any (a)(1) – (a)(3) waters and is not inundated by flooding of any (a)(1) – (a)(3) waters.
WTL-9	0.08 acres	(b)(1) Non-adjacent wetland	WTL- 9 is not adjacent to or hydrologically connected to any (a)(1) – (a)(3) waters and is not inundated by flooding of any (a)(1) – (a)(3) waters.

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)*.

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This information is sufficient for purposes of this AJD. 2020-10-05 PCN Submittal, PDF Pages 8-11 Delineation Report Summary, dated September 2020; PDF Page 13, Figure 1: Project location Map; PDF Page 15, Figure 3: HUC 12 Watershed Map.

- Data sheets prepared by the agent for the applicant: *Title(s) and/or date(s)*. 2020-10-05 PCN Submittal, PDF Pages 34 - 87, Wetland Determination Data Sheets, dated January 10-11, 2019; PDF Pages 88 – 90, North Carolina Stream Identification forms, dated January 10-11, 2019.
- Photographs: *(NA, aerial, other, aerial and other) Title(s) and/or date(s)*. 2020-10-05 PCN Submittal, PDF Pages 20-32, Site Photographs 1 -26 (two photos per page).
- Corps Site visit(s) conducted on: *Date(s)*. *November 17, 2020*.
- 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)*. 2020-10-05 PCN Submittal, PDF Page 16, Figure 4: Soil Map.
- USFWS NWI maps: *Title(s) and/or date(s)*. 2020-10-05 PCN Submittal, PDF Page 17, Figure 5: National Wetlands Inventory Map.
- USGS topographic maps: *Title(s) and/or date(s)*. 2020-10-05 PCN Submittal, PDF Page 14, Figure 2: USGS Site Location Map.

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
FEMA Flood Maps	Provide via email on November 19, 2020 by the agent for the applicant. Floodplain north PDF and Floodplain south PDF in PCN File folder in Corps file folder SAS-2020-00539, Cauey Creek Park.

B. Typical year assessment(s): According the APT, which used data available from GA Weather Stations within proximity of the review area, the conditions were wetter than normal at the time on the delineation on January 10-11, 2019, conducted by Barge Design Solutions staff. The wetter than normal site conditions provide a high level of confidence that excluded features are not jurisdictional. Wetlands 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 are not inundated by flooding and do not have a direct hydrological connection to, and do not abut any (a)(1)-(a)(3) waters, although they all meet the three parameters under the 1987 Corps of Engineers Wetland Delineation Manual and/ or the Eastern Mountains and Piedmont Regional Supplement to this manual. These wetlands are best characterized as (b)(1) features, per 33 CFR 328.3 Definitions. While EPH-1 and EPH-2 both have an ordinary high-water mark these features do not have intermittent or perennial flow or a ground water connection and do not meet the three parameters for a wetland under the 1987 Corps of Engineers

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Wetland Delineation Manual and/ or the Eastern Mountains and Piedmont Regional Supplement to this manual. Therefore EPH-1 and EPH-2 are best characterized as (b)(3) features, per 33 CFR 328.3 Definitions. During the site visit conducted by the Corps on November 17, 2020, the open water features, P1, P2 and P3, on the site appeared to be constructed in upland locations and related to adjacent land use and no outlets for any of the ponds were observed. P1 appears to overtop the earthen berm during and after storm events and contributes some flow to Wetland 11. P2 appears to have an impervious liner in the bottom of the pond. P3 appears to have structures within the pond that may function as outlets, the downstream location of these outlets is unknown and does not appear to contribute to downstream flows in (a)(1) – (a)(3) waters. Ponds P1, P2, and P3 were not constructed in-line with any (a)(1) – (a)(3) waters and are therefore best characterized as (b)(8) features, per 33 CFR 328.3 Definitions.

- C. Additional comments to support AJD:** The nearest TNW is the Chattahoochee River, a River and Harbors Act Section 10 water, located on the southern boundary of the project site. STR-2 flows into STR-1 which flows into the Chattahoochee River. STR-1 and STR-2 are best characterized as (a)(2) features, per 33 CFR 328.3 Definitions. STR-1 has an ordinary high-water mark, sediment sorting, defined bed and banks and year-round perennial flow, per RGL 05-05. STR-2 has intermittent flow, an ordinary high-water mark, and defined bed and banks, per RGL 05-05. Wetlands 14, 15, 16, 17, and 18 are inundated by flooding from STR-2 and are hydrologically connected to STR-2 within the floodplain of the stream. Wetland 11 has a linear portion that has a series of culverts that were installed for the previous land-use and provides a direct hydrological connection from STR-1. The linear portion of wetland 11 directly abuts STR-1 and connects the larger portion of wetland 11 to STR-1 to allow flows to travel from the wetland into STR-1 then to the Chattahoochee River. Wetland 19 is inundated by flooding from STR-1 and also directly abuts STR-1. Wetlands 11, 14, 15, 16, 17, 18, and 19 are best characterized as (a)(4) features, per 33 CFR 328.3 Definitions.

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