



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): March 17, 2021

ORM Number: SAS-2020-00791

Associated JDs: N/A

Review Area Location<sup>1</sup>:

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

Center Coordinates of Review Area: Latitude 33.767108 Longitude -84.421356

**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)<sup>2</sup>**

§ 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)<sup>3</sup>

(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

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<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
English Avenue Tributary	770 feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	See Section III. C
Ephemeral Channel	491 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)	See Section III. C

**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 with Supplemental Documentation, PDF page 7, Exhibit 4: Street Map; PDF pages 8-9, Exhibit 5: Fact Sheet for City of Atlanta Department of Watershed Management West Area Combined Sewer Overflow (CSO) Storage Tunnel Project; PDF page 10, Exhibit 6: West Area CSO Schematic Diagram; PDF page 11, Exhibit 7: North Avenue CSO Basin, Existing Trunk and Outfall Locations; PDF page 12, Exhibit 8: North Ave CSO Facility Aerial Map; PDF page 13, Exhibit 9: North Ave CSO Pipe Infrastructure Summary; PDF pages 14-23, Exhibit 10: Diversion Structure Engineering Drawings, Recorded Drawings; PDF pages 24-29, Diversion Structure Engineering Drawings, Recorded Drawings. All PDFs cited in this section received January 8, 2021. All engineering plans were recorded in 2008-2009.*  
This information is sufficient for purposes of this AJD.

Data sheets prepared by the agent for the applicant: *AJD request with Supplemental Documentation, PDF pages 31-32, Exhibit 12: NC Division of Water Quality- Methodology for Identification of Intermittent and Perennial Stream and Their Origins v. 4.11 (2 documents), ES-1 and PS-1, dated October 15, 2020.*

Photographs: *(aerial and site photographs) AJD request with Supplemental Documentation, PDF page 5, Exhibit 2: Aerial Map, received January 8, 2021; PDF page 33, Exhibit 14: Representative Photographs (6 total images), received January 8, 2021.*

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: *AJD request with Supplemental Documentation, PDF pages 35-37, Exhibit 16: Soil Map, dated November 2, 2020.*

USFWS NWI maps: *AJD request with Supplemental Documentation, PDF page 34, Exhibit*

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15: NWI Map, dated November 2, 2020.

- USGS topographic maps: *AJD request with Supplemental Documentation, PDF page 6, Exhibit 3: Topographic Map, received January 8, 2021.*

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	<a href="https://streamstats.usgs.gov/ss/">https://streamstats.usgs.gov/ss/</a> accessed on March 12, 2021
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Google Earth aerial imagery 1985-2021, Digital Globe, HistoricAerials.com (all accessed March 12, 2021).

- B. Typical year assessment(s):** According to the APT, which used data available from GA Weather Stations within proximity of the review area the conditions in Fulton County were wetter than normal. Therefore, there is a high level of confidence that excluded features are not jurisdictional. The nearest Traditionally Navigable Water (TNW) is the Chattahoochee River, a Rivers and Harbors Action Section 10 Water. All waters on the project site flow into Saint John Trunk Line. The Trunk line then flows into the North Avenue Combined Sewer Overflow Facility (CSOF), then into a diversion structure, then into a drop shaft to the West Area Tunnel. The West Area Tunnel flows into the R.M. Clayton Water Reclamation Center (WRC) when weather conditions are dry or normal. The water treatments facilities treat the water (combined sewage and stormwater) and is released into the Chattahoochee River Outfall, as treated effluent. During wetter conditions the water would flow from the West Area Tunnel into the West Area Water Quality Facility and would be released as effluent in the Chattahoochee River. During ten-year or greater storm events the volume of water may fill the West Area Tunnel and when this happens a release valve is utilized to route water to the Tanyard Creek or the Clear Creek Combined Sewer Facilities for immediate release to reduce the water volume in other treatment facilities and prevent the West Area Tunnel from overflowing. Water from the Tanyard Creek and Clear Creek facilities is released from the outfall at Proctor Creek during these ten-year or greater storm events. The entirety of the approximately 2.36 square mile upstream drainage catchment is currently shunted into and contained within a closed CSO facility with no outlet.
- C. Additional comments to support AJD:** Upon review of historic aerials for the project site location it appears that the area was undeveloped in 1938 and there were no stream or wetland features visible on aerial imagery. In 1955 the surrounding residential development was being constructed. Between 1955 and 1960 a building was constructed in the area that is proposed for development of a park. The pipe connecting the upstream segments of English Avenue Tributary was installed to accommodate the construction of the building at this location between 1955-1960, prior to the Clean Water Act regulations. The building was later demolished between 1981 and 1988. The area then began to erode due to the run-off from surrounding development and impervious surfaces. The Ephemeral

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Channel feature appears to be a ditch that allows water to flow off of the two surrounding commercial developments. This feature does not have an Ordinary High Water Mark (OHWM) and does not meet the three parameters of a wetland, per Regulatory Guidance Letter 05-05 and the 1987 Corps of Engineers Wetland Delineation Manual and/ or the Eastern Mountains and Piedmont Regional Supplement to this manual. Therefore, the ephemeral Channel feature is best characterized as a b(5), per 33 CFR 328.3 Definitions. The English Avenue Tributary does have the physical characteristics of an OHWM, with a defined bed and banks and perennial flow. However, the English Avenue Tributary feature does not contribute flow to downstream waters or a TNW in a typically year due to the existing Saint John Trunk Line routing to the North Avenue Combined Sewer facility. The English Avenue Tributary is best characterized as a b(1) surface water feature, that does not contribute water to any a(1) – a(3) waters in a typically year, per 33 CFR 328.3 Definitions.

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