



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): June 24, 2021

ORM Number: SAS-2021-00229

Associated JDs: N/A

Review Area Location¹:

State/Territory: GA City: Marietta County/Parish/Borough: Cobb County

Center Coordinates of Review Area: Latitude 33.915775 Longitude -84.577316

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
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

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland 1	0.014 acres	(b)(1) Non-adjacent wetland	See Section III. C.
WWC-1	857 feet	(b)(4) Diffuse stormwater run-off over upland or directional sheet flow over upland	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: *PCN NWP 29 1540 Cunningham Road Site submittal, PDF pages 1-4 narrative and descriptions of proposed project and aquatic resources, received March 16, 2021 from Contour Environmental, LLC; PDF pages 20-21, 2017 PCN Forms; PDF page 18, Figure 6: FEMA Flood Insurance Rate Map (FIRM); PDF page 10, Figure 3: Aquatic Resource Delineation Map; PDF page 8, Figure 2: Construction Plans, dated February 26, 2021.*
This information is sufficient for purposes of this AJD.
Rationale: *N/A*
- Data sheets prepared by the applicant/consultant: *PCN NWP 29 1540 Cunningham Road Site submittal, PDF page 55, NC DWQ Stream Identification Forms Version 4.11, WWC-1, dated January 29, 2020; PCN NWP 29 1540 Cunningham Road Site RAI submittal, PDF pages 1-6, Wetland Determination Data Forms, dated April 22, 2021, submitted April 30, 2021*
- Photographs: *PCN NWP 29 1540 Cunningham Road Site submittal, Photographic Documentation, Site Photographs, PDF pages 45-53, Photos 1-8, dated January 29, 2020*
- 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: *PCN NWP 29 1540 Cunningham Road Site submittal, PDF page 12, Figure 4: USDA NRCS Soil Map, dated March 11, 2021.*
- USFWS NWI maps: *PCN NWP 29 1540 Cunningham Road Site submittal, PDF page 16, Figure 5: USFWS National Wetland Inventory (NWI) Map, dated March 11, 2021.*
- USGS topographic maps: *PCN NWP 29 1540 Cunningham Road Site submittal, PDF page 6, Figure 1: Site Location Map, dated March 12, 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 accessed on April 16, 2021. https://streamstats.usgs.gov/ss/
USDA Sources	N/A.
NOAA Sources	N/A.

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USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** According to the Antecedent Precipitation Tool (APT), which cross-references and models local weather station outputs within 30-miles of the review area and national climate datasets, including; Palmer Drought Severity Index (NPDSI) and the Web-based Water Budget Interactive Modelling Program (WIMP), the conditions in Cobb County were wetter than normal on January 29, 2020, based on the normal range of precipitation within a 30-year period. Therefore, there is a high level of confidence that excluded features are not jurisdictional.
- C. Additional comments to support AJD:** Aquatic resource identified as wet water conveyance (WWC-1) shows no physical indicators of OHWM, per RGL 05-05 as seen in photos 1-8. WWC-1 does not meet the three parameters of a wetland, per the 1987 Corps of Engineers Wetland Determination Manual and the Eastern Mountains and Piedmont Regional Supplement to the manual. Therefore, WWC-1 is best characterized as a (b)(4) feature. Wetland A meets the three parameters of wetland, per the 1987 Corps of Engineers Wetland Determination Manual and the Eastern Mountains and Piedmont Regional Supplement to the manual. However, this feature does not hydrologically contribute to (a)(1)-(a)(4) waters in a typical year, and thus is best characterized as a (b)(1) feature, per 33 CFR 328.3 definitions. Therefore, based on the review of the data compiled, we have determined that the subject (b)(1) feature is excluded under NWPR based on the adjacency criteria expressed in paragraph (c)(1) of the rule, and the (b)(4) feature is excluded because it does not convey channelized surface flow.

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