



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 17, 2021

ORM Number: SAS-2021-00355

Associated JDs: N/A

Review Area Location¹:

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

Center Coordinates of Review Area: latitude: 34.023028, longitude: -84.629568

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
Intermittent Stream 2	34 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	See Section III B below.
Intermittent Stream 3	147 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	See Section III B below.
Perennial Stream 1	296 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	See Section III B below.

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 or 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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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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Stream S3a	41 feet	(b)(4) Diffuse stormwater run-off over upland or directions sheet flow over upland	See Section III C below.
Wetland A	0.15 acres	(b)(1) Non-adjacent wetland	See Section III C below.

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: *USACE Approved Jurisdictional Determination Request, dated April 30, 2021, PDF pages 1-3, Cover Letter with site delineation report; PDF page 9, Figure 5: FEMA Flood Map; PDF page 10, Figure 6: Site Waters Map; PDF page 21, US Army Corps of Engineers, Savannah District GPS Delineation Datasheet, dated April 15, 2021.*

This information is sufficient for purposes of this AJD.
Rationale: *See below.*

Data sheets prepared by the agent for the applicant: *USACE Approved Jurisdictional Determination Request, dated April 30, 2021, PDF pages 23-28, Wetland determination Forms, 2 sets, 1 upland, 1 wetland A, dated April 15, 2021; PDF pages 29-32, NC DWQ Stream Identification Forms Version 4.11, 4 forms (S1 S2, S3a, S3), dated April 15, 2021.*

Photographs: *aerial and site photographs. USACE Approved Jurisdictional Determination Request, dated April 30, 2021, PDF page 6, Figure 2: Site Aerial Map; PDF pages 11-12, Site Photographs, Photographs 1-4, taken April 15, 2021. Request for Additional Information Response Photo Log, PDF pages 1-4, Site Photographs 1-7, received on August 10, 2021.*

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

Previous Jurisdictional Determinations (AJDs or PJDs): *N/A*

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

USDA NRCS Soil Survey: *USACE Approved Jurisdictional Determination Request, dated April 30, 2021, PDF page 7, Figure 2: Site Soils Map.*

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- USFWS NWI maps: *USACE Approved Jurisdictional Determination Request, dated April 30, 2021, PDF page 8, Figure 4: NWI Map.*
- USGS topographic maps: *USACE Approved Jurisdictional Determination Request, dated April 30, 2021, PDF page 5, Figure 1: Site Location Map, USA Topo Maps.*

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

- B. Typical year assessment(s):** According to the information provided by the APT, which uses data available from GA Weather Stations within proximity of the review area, the site conditions in Cobb County on April 15, 2021 were normal. Therefore, there is a high level of confidence that excluded features are not jurisdictional. Perennial Stream 1 and Intermittent Streams 2 and 3 have the physical characteristics of an Ordinary High-Water Mark (OHWM), per Regulatory Guidance Letter (RGL) 05-05. Perennial stream 1 and intermittent streams 1 and 2 do not meet the three parameters for a wetland, per the 1987 Corps of Engineers Wetland Delineation Manual and the Eastern Mountains and Piedmont Regional Supplement to this manual. Perennial stream 1 has perennial flow and is therefore best characterized as an (a)(2) feature, 33 CFR 328.3 Definitions. Intermittent streams 2 and 3 have intermittent flow and are best characterized as (a)(2) features, per 33 CFR 328.3 Definitions. Intermittent stream 2 and 3 flow into Perennial stream 1. Perennial stream 1 flows to the southwest into Butler Creek, located off-site. Butler Creek flows into Lake Acworth. Lake Acworth is the nearest Traditionally Navigable Water (TNW).
- C. Additional comments to support AJD:** Ephemeral stream S3a does not meet the three parameters of a wetland, per the 1987 Corps of Engineers Wetland Delineation Manual and the Eastern Mountains and Piedmont Regional Supplement to this manual. Stream S3a does not have the physical characteristics of an OHWM, per RGL 05-05, and flows only in direct response to precipitation. Stream S3a does not contribute flow to (a)(1) – (a)(3) waters in a typical year. Therefore, ephemeral stream S3b is best characterized as a (b)(4) feature, per 33 CFR 328.3 Definitions. Wetland A does not have the physical characteristics of an OHWM, per RGL 05-05. Wetland A meets the three parameters of a wetland, per the 1987 Corps of Engineers Wetland Delineation Manual and the Eastern Mountains and Piedmont Regional Supplement to this manual. However, wetland A is geographically separated from any (a)(1) – (a)(3) waters and does not meet any of the definitions for adjacency established under 33 CFR 328.3(c)(1). Therefore, Wetland A is best characterized as a (b)(1) feature, per 33 CFR 328.3 Definitions.

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