



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 23, 2021

ORM Number: SAS-2021-00411

Associated JDs: N/A

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

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

Center Coordinates of Review Area: latitude: 34.183576, longitude: -84.28759

**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

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<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
Stream 1	160 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	See Section III C below.
Wetland A	0.01 acres	(b)(1) Non-adjacent wetland	See Section III C below.
Wetland B	0.027 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: *Ray Pendley AJD request, dated April 8, 2021, received May 26, 2021, PDF pages 1-3, Cover Letter; PDF page 6, National Flood Hazard Layer FIRMette, received May 26, 2021; Field Sketches and Annotated Field Sketch, received August 13, 2021; Revised Resource Sketch with Review Area Boundary, Received August 20, 2021.*

This information is sufficient for purposes of this AJD.

Rationale: *N/A*

Data sheets prepared by the agent for the applicant: *Ray Pendley AJD request, dated April 8, 2021, received May 26, 2021, PDF pages 14-16, Water Resource Characterization (2 pages), dated April 7, 2021; NC DWQ Stream Identification Form, V. 4.11, dated April 7, 2021; PDF pages 17-25, Wetland Determination Data Forms, 3 sets (Wetlands A and B and non-wetland Area C), dated April 7, 2021.*

Photographs: *(aerial and site photographs): Ray Pendley AJD request, dated April 8, 2021, received May 26, 2021, PDF page 26, Site Photographs 1-4, dated April 7, 2021. Historic Aerials, dates: 1955, 1972, 1978, 1981, and 2017, dated accessed August 17, 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: *Ray Pendley AJD request, dated April 8, 2021, received May 26, 2021, PDF pages 8-10, Soil Map – Fulton County, Georgia, Pendley Property. USDA, NRCS Soil Survey, accessed on August 17, 2021.*

USFWS NWI maps: *Ray Pendley AJD request, dated April 8, 2021, received May 26, 2021, PDF page 7, National Wetlands Inventory Map, Pendley Property.*

Topographic maps: *Fulton County Topographic Map, Pendley Fulton County, access June 1, 2021.*

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

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Data Source (select)	Name and/or date and other relevant information
USGS Sources	Streamstats
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Historicaerials.com; Google Earth, National Regulatory Viewer

- 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 Fulton County on April 7, 2021 were normal. Therefore, there is a high level of confidence that excluded features are not jurisdictional. The nearest Traditionally Navigable Water (TNW) is Allatoona Lake.
- C. Additional comments to support AJD:** Review of historic aerials reveals that the site was previously used for agricultural purposes in 1955, the site was cleared of vegetation and appears to have been used as an agricultural production field. A single-family residential structure and associated driveway were constructed on the adjacent site between 1968 and 1972, and according to the information provided the driveway utilized a culvert. Stream 1 has some of the physical characteristics of an Ordinary High-Water Mark (OHWM) in segments, per Regulatory Guidance Letter (RGL) 05-05. Stream 1 does have some pooling surface water visible in segments of the feature, while other segments of the feature are fully vegetated without pooling or flowing water. Stream 1 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. Therefore, Stream 1 is best characterized as a (b)(3) feature, per 33 CFR 328.3 Definitions. Wetlands A and B 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. Wetlands A and B do not have the physical characteristics of an OHWM, per RGL 05-05. Wetlands A and B do not contribute flow to any (a)(1) – (a)(3) features in a typical year and do not meet any of the definitions for adjacency established under 33 CR 328.3(c)(1). Therefore, Wetlands A and B are best characterized as (b)(1) features, per 33 CFR 328.3 Definitions.

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