



**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): 9/18/2020

ORM Number: LRN-2018-00933

Associated JDs: N/A

Review Area Location¹: State/Territory: TN City: Ocoee County/Parish/Borough: Polk County

Center Coordinates of Review Area: Latitude 35.1116° Longitude -84.6745°

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
- 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
STR-2 (Ocoee River)	118	linear feet	RHA Non-tidal water is on the district's Section 10 waters list	The Ocoee River (Mouth to Mile 38.8) is included in the List of Navigable Waters of the United States (U.S.) within the Nashville District (Public Notice ORNOR-F 86-23, dated 8 May 1986).

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
STR-2 (Ocoee River)	118	linear feet	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	The Ocoee River (Mouth to Mile 38.8) is included in the List of Navigable Waters of the United States (U.S.) within the Nashville District (Public Notice ORNOR-F 86-23, dated 8 May 1986).

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 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.



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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
STR-1	283	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The feature was determined to have an intermittent flow regime based on an evaluation of the submitted field data sheet, submitted drainage area maps, topographic maps, and online resources indicating that it flows directly into an (a)(1) water (Ocoee River). The submitted drainage area maps and StreamStats indicate that the drainage area of the feature is ±33 acres. StreamStats reports the 7-day, 10-year low flow (7Q10) to be 0.0025 cubic feet per second (CFS) and the mean annual flow to be 0.0816 CFS. The feature contained isolated pools of water on the observation date.

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.	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.	N/A.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
WWC-1/EPH-1	162	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The feature was determined to have an ephemeral flow regime based on an evaluation of the submitted field data sheet and hydrologic determination form, submitted drainage area maps, topographic maps, the Antecedent Precipitation Tool (APT), and online resources. The submitted drainage area maps indicate that the drainage area of the feature is ±4.23 acres. The feature contained no flowing water or isolated pools on the observation date, despite receiving 0.11 inch of rainfall the preceding week and the APT demonstrating the observation was made during wetter than normal conditions.
WWC-2/EPH-2	419	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The feature was determined to have an ephemeral flow regime based on an evaluation of the submitted field data sheet and hydrologic determination form, submitted drainage area maps, topographic maps, the APT, and online

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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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			resources. The submitted drainage area maps indicate that the drainage area of the feature is ±7.08 acres. The feature contained no flowing water or isolated pools on the observation date, despite receiving 0.11 inch of rainfall the preceding week and the APT demonstrating the observation was made during wetter than normal conditions.

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: *NWP PCN dated 24 Jun 2020, including “Updated – Environmental Boundaries Report” dated 22 Oct 2018 and Roadway Plans containing drainage area maps.*

This information is sufficient for purposes of this AJD.

Rationale: *Additional resources were utilized as described below.*

Data sheets prepared by the Corps: *N/A*

Photographs: *Aerial and Other: Maxar G-EGD (aka DigitalGlobe) aerial imagery dated 28 Feb 2016, 30 Aug 2019, 22 Feb 2020; Google Earth Pro aerial imagery dated Mar 1997, Oct 2009, Oct 2015, Mar 2017, Apr 2018, Nov 2019; site photos provided in “Updated – Environmental Boundaries Report” dated 22 Oct 2018; and Google Street View images dated Aug 2007, Apr 2009, Jun 2015, Sep 2015, Dec 2018.*

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: *Polk County, 2003*

USFWS NWI maps: *Accessed via USFWS NWI Mapper on 5 Aug 2020.*

USGS topographic maps: *Parksville 7.5-Minute Quadrangle, 1935, 1946, 1960, 1970, 1989, 2003.*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
<i>USGS/WBD/NHD data/maps</i>	<i>NHD data was reviewed on 5 Aug 2020 via LRN Regulatory Viewer. Within the project area, the Ocoee River is the only feature identified in the NHD.</i>
<i>USDA Sources</i>	<i>N/A.</i>
<i>NOAA Sources</i>	<i>N/A.</i>
<i>Other USACE data (specify)</i>	<i>LRN Regulatory Viewer, accessed 5 Aug 2020.</i>
<i>State/Local/Tribal Sources</i>	<i>N/A.</i>
<i>Other Sources</i>	<i>N/A.</i>
<i>USGS Stream stats</i>	<i>StreamStats web application was reviewed on 5 Aug 2020. Within the project area, the gridded representation of the stream network includes STR-1, STR-2 (Ocoee River), and a small segment of WWC-2/EPH-2.</i>

B. Typical year assessment(s): *The Antecedent Precipitation Tool was used to evaluate the project area for the previous 90 days, with an input date of 12 Jul 2018, the date of observations recorded in the submitted*



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“Updated – Environmental Boundaries Report” dated 22 Oct 2018. A single point centered on STR-1 was used to evaluate the precipitation data and was determined to be representative of the project area based on the small geographic size of the site. The Web-based Water-Budget Interactive Modeling Program (WebWIMP) indicates the observation date to be within the dry season. However, the 90-day period beginning 13 May 2018 was determined to be wetter than normal and the precipitation exceeded the 70th percentile for all three 30-day periods. Further, the PSDI Drought Index indicated “mild wetness” conditions. The submitted field data sheets and hydrologic determination forms indicate there was 0.11 inch of rainfall in the week prior to the observation date. No flowing water or isolated pools were observed at either WWC-1/EPH-1 or WWC-2/EPH-2. Isolated pools of water were observed at STR-1.

C. Additional comments to support AJD: N/A