



**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): 9/24/2020
 ORM Number: LRN-2019-00311
 Associated JDs: LRN-2019-00311; PJD on 28 Jan 2020
 Review Area Location¹: State/Territory: Alabama City: Huntsville County/Parish/Borough: Madison
 Center Coordinates of Review Area: Latitude 34.65283 Longitude -86.72210

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
W-1	3.4	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.
			W-1 continues offsite to the west and abuts Betts Spring Branch, a perennial tributary that flows into

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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Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
			Barren Fork Creek that flows into Wheeler Lake, an impoundment of the Tennessee River, a TNW.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
W-2	1.8 acre(s)	(b)(1) Non-adjacent wetland.	An upland ditch drains to the south from W-2. The upland ditch eventually drains into an unnamed tributary of Betts Spring Branch to the west. W-2 does not abut, receive flooding in a typical year from, or separated from an (a)(1), (a)(2), or (a)(3) water by a natural or artificial barrier.

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: [Original JD request dated 22 April 2019, with revisions dated 6 December 2019 \(JD Report\)](#).

This information is sufficient for purposes of this AJD.

Rationale: [Revised JD report created in response to USACE site visit on 30 July 2019.](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).

Photographs: [Aerial and Other: Images from both the JD report and photographs taken by USACE during the site visit](#)

Corps site visit(s) conducted on: [30 July 2019](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [LRN-2019-00311; 28 January 2020.](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [Madison County, Alabama](#)

USFWS NWI maps: [W-2 is a PFO1A](#)

USGS topographic maps: [Madison Quad, Alabama](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Quadrangle map of the property, Madison, Alabama
USDA Sources	Soil survey for Madison County, Alabama, accessed via ORM2
NOAA Sources	N/A.
USACE Sources	Various layers from ORM2
State/Local/Tribal Sources	N/A.
Other Sources	Google Earth images of the property.

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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- B. Typical year assessment(s):** N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.
- C. Additional comments to support AJD:** On 18 August 2020 Jeff Benton Homes submitted a Department of the Army permit application to discharge fill material into both W-1 and W-2. USACE had completed a PJD for both wetlands on 28 January 2020, before the NWPR was finalized. Under the NWPR W-2 is not an adjacent wetland so that a new JD was necessary in order to process a permit accordingly.