



**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): 8/12/2020
 ORM Number: LRN-2020-00064
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Alabama City: Athens County/Parish/Borough: Limestone
 Center Coordinates of Review Area: Latitude 34.75724 Longitude -86.97568

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
S-2	148	linear feet	S-2 flows southeast into another unnamed tributary which continues southeast into Swan Creek which discharges into Wheeler Lake, a TNW that is an impoundment of the Tennessee River.

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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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
WET-1	18.5	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.	WET-1 is essentially the same wetland as WET-2 as it is connected through a wetland ditch. The consultant labeled them as different wetlands because a farm road crosses the wetland ditch. The farm road is approximately 20' wide and 1' high. There is no culvert under the farm road but water is able to flow from WET-1 to WET-2 in a typical year as water was flowing over the road during my 27 January 2020 site visit. WET-2 abuts Mud Creek, an intermittent stream that is a tributary of Wheeler Lake, a TNW that is an impoundment of the Tennessee River.
WET-2	6.5	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	As discussed above, WET-2 is essentially the same wetland as WET-1. WET-2 abuts Mud Creek, an intermittent tributary that is located just outside the AJD review area. Mud Creek flows directly into Wheeler Lake, a TNW that is an impoundment of the Tennessee River.
WET-4	4.5	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	WET-4 abuts S-2, a perennial tributary of a TNW (see rationale for S-2 above at II.C.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
S-1	803	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 physical observation during two site inspections.
WET-3	1.1	acre(s)	(b)(1) Non-adjacent wetland.	WET-3 abuts S-1, an ephemeral stream. WET-3 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.
WET-5	0.2	acre(s)	(b)(1) Non-adjacent wetland.	WET-5 does not abut, receive flooding in a typical year from, or separated from an (a)(1),

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
			(a)(2), or (a)(3) water by a natural or artificial barrier.
WET-6	0.7	acre(s)	(b)(1) Non-adjacent wetland. WET-6 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: [JD Report titled, “Henry White / Roy Long Rd Property Wetland Delineation”, dated, July 26, 2019.](#)
This information is *not* sufficient for purposes of this AJD.
Rationale: [The report did not identify WET-3 and WET-5](#)
- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial and Other: Aerial images provided in the JD report, and reviewed within ORM2 and Google Earth. Photographs taken by USACE during 27 Jan 2020 and 19 Jun 2020 site inspections.](#)
- Corps site visit(s) conducted on: [27 Jan 2020 and 19 Jun 2020](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\).](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Accessed within ORM2](#)
- USFWS NWI maps: [Accessed within ORM2](#)
- USGS topographic maps: [Accessed within ORM2](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA NRCS WETS tables	Included on Antecedent Precipitation Tool, Determined to be wetter than normal.
NOAA Sources	N/A.
CorpsMap ORM Map Layers	Used to view aerial images, USGS topographical quad maps, NRCS soil survey, FEMA floodplain maps, and USFWS NWI maps.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): The Antecedent Precipitation Tool (APT) was used to evaluate the project area for the months preceding my 19 June 2020 site inspection. A single point centered on the AJD review area was used to evaluate the rainfall data. The 90 day period preceding 19 June 2020 was determined to be drier than normal with the two nearest months being slightly drier than the 30th percentile but the month ending on April 20 was extremely wet with 11.1 inches of rain. The drought index further describes the period ending on May 2020 as extreme wetness. No flow was observed in S-1 and was determined to be ephemeral based on the lack of flow, a channel that lacked in ordinary high water mark consistently throughout its length, upland herbaceous vegetation growing in the channel bottom and roots from upland woody vegetation growing across the channel bottom. The APT precipitation graph records rainfall as



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early as November 2019 which shows the 30 day rolling total precipitation amounts exceeded the 30 year normal range for most days during the period between November and May 2020. S-1 had a small amount of flow during the 27 Jan 2020 site inspection and in segments of S-1 there was no flow even though this was during a wet period. S-2 was found flowing during the 27 Jan 2020 site inspection and consultant, Ms. Patti Kelly said S-2 had flow back in the fall as well which was in the normal dry time of year.

C. Additional comments to support AJD: N/A or provide additional discussion as appropriate.