



**DEPARTMENT OF THE ARMY**  
CHARLESTON DISTRICT, CORPS OF ENGINEERS  
1835 ASSEMBLY STREET, ROOM 865B-1  
COLUMBIA, SOUTH CAROLINA 29201

August 19, 2020

Regulatory Division

Mr. JD Collins  
Sabine & Waters, Inc.  
P.O. Box 1072  
Summerville, South Carolina 29484  
jcollins@sabinc.net

Dear Mr. Collins:

This is in response to your request for an Approved Jurisdictional Determination (AJD) (SAC-2019-01615) received in our office on October 2, 2019, for a 46.87-acre site located north of the intersection of Colony Park Lane and US Hwy 176 Charleston Hwy, Lexington County, South Carolina (Latitude: 33.8952°, Longitude: -81.0556°). An AJD is used to indicate that the U.S. Army Corps of Engineers (Corps) has identified the presence or absence of wetlands and/or other aquatic resources on a site, including their accurate location(s) and boundaries, as well as their jurisdictional status as waters of the United States pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. § 1344) and/or navigable waters of the United States pursuant to Sections 9 and 10 of the Rivers and Harbors Act of 1899 (RHA) (33 U.S.C. § 401 *et seq.*). This AJD is issued in accordance with the definition of Waters of the United States in Corps regulations at 33 C.F.R. §328.3, as revised by the Navigable Waters Protection Rule: "Definition of Waters of the United States," 85 Fed. Reg. 22250 (April 21, 2020), which became effective on June 22, 2020.

The site is shown on the attached survey plat entitled "WETLAND SURVEY PLAT ON 46.87 ACRES OF LAND, BEING TAX MAP NO. 007997-02-031" and dated December 2, 2019 (revised July 16, 2020) prepared by ASSOCIATED SURVEYORS OF SUMMERVILLE. Based on two on-site inspections, a review of aerial photography, topographic maps, National Wetlands Inventory maps, soil survey information, SCDNR Lexington County LiDAR Data, and Wetland Determination Data Form(s), we conclude the referenced plat accurately reflects the location and boundaries of aquatic resources within the site. The site contains 1 acres of jurisdictional wetlands that are subject to Corps' jurisdiction under Section 404 of the CWA.

The site also contains aquatic resources that are not subject to Corps' jurisdiction under Section 404 of the CWA or Sections 9 and 10 of the RHA.

Attached is a form describing the basis of jurisdiction for the delineated area(s). Be aware that a Department of the Army (DA) permit may be required for certain activities in the areas subject to Corps' regulatory jurisdiction, and these areas may be subject to restrictions or requirements of other state or local government agencies.

If you submit a permit application as a result of this AJD, include a copy of this letter and the plat as part of the application. Not submitting the letter and depiction will cause a delay while

we confirm an AJD was performed for the proposed permit project area. Note that some or all of these areas may be regulated by other state or local government entities, and you should contact the South Carolina Department of Health and Environmental Control, Bureau of Water to determine the limits of their jurisdiction.

This AJD is valid for five (5) years from the date of this letter unless new information warrants revision before the expiration date. This AJD is an appealable action under the Corps administrative appeal procedures defined at 33 CFR Part 331. The administrative appeal options, process and appeals request form is attached for your convenience and use.

The delineation included herein has been conducted to identify the location and extent of the aquatic resource boundaries and/or the jurisdictional status of aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This delineation and/or jurisdictional determination may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

In all future correspondence, please refer to file number SAC-2019-01615. A copy of this letter is forwarded to State and/or Federal agencies for their information. If you have any questions, please contact Jonathan Swartz, Project Manager, at (803) 253-3906, or by email at Jonathan.M.Swartz@usace.army.mil.

Sincerely, MCKOY.PETER.B.12298



60590  
2020.08.19 08:39:13

Brice McKoy<sup>04'00'</sup>  
Chief, Northwest Branch

Attachments:

Approved Jurisdictional Determination Form

Notification of Appeal Options

Survey plat entitled "WETLAND SURVEY PLAT ON 46.87 ACRES OF LAND, BEING TAX MAP NO. 007997-02-031" and dated December 2, 2019 (revised July 16, 2020)

Copies Furnished:

Mr. Johnny Ward  
Cooper Investors, LLC  
P.O. Box 98  
Monks Corner, South Carolina 29461

SCDHEC – Bureau of Water  
2600 Bull Street  
Columbia, South Carolina 29201  
[WQCWetlands@dhec.sc.gov](mailto:WQCWetlands@dhec.sc.gov)





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REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

**I. ADMINISTRATIVE INFORMATION**

Completion Date of Approved Jurisdictional Determination (AJD): August 19, 2020

ORM Number: SAC-2019-01615

Associated JDs: (SAC-2007-01939 and SAC-2013-00950)

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

State/Territory: SC City: West Columbia County: Lexington County

Center Coordinates of Review Area: Latitude 33.89523 Longitude -81.055635

**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)<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

<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 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.

<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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Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Jurisdictional Wetland A (JW-A)	1 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	This wetland directly abuts the OWHM of an off-site unnamed (a)(2) tributary that flows into Dry Creek that flows into Congaree Creek during a typical year. The section of the off-site unnamed (a)(2) that Wetland A is abutting is natural, however, a reach downstream was channelized at some point in time to reroute the tributary around a residential development. This tributary was observed to have perennial flow during both Corps site visits.

**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
Non-Jurisdictional Feature A (NJF-A)	651 linear feet Or 0.23 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	NJF-A is an upland dug drainage feature. NJF-A flows directly into an off-site rerouted unnamed (a)(2) tributary, a reach that was channelized at some point in time to reroute the tributary around a residential development that flows into Dry Creek which flows into Congaree Creek during a typical year. This is shown on historic aerial imagery, LiDAR, and other mapping/data. However, NJF-A was constructed in uplands for agricultural purposes. Additionally, there is no available information currently to demonstrate that this ditch is a rerouted (a)(1)-(3) water.
Non-Jurisdictional Wetland A (NJW-A)	0.24 acres	(b)(1) Non-adjacent wetland	NJW-A does not abut and is not inundated by an (a)(1)-(3) water. Additionally, NJW-A is physically separated from an (a)(1)-(3) water by multiple physical, man-made barriers (berms, roads, etc.) NJW-A is completely encompassed entirely by uplands and lacks a direct or indirect surface connection to (a)(1)-(3) waters.
Non-Jurisdictional Wetland B (NJW-B)	1.05 acres	(b)(1) Non-adjacent wetland	NJW-B does not abut and is not inundated by an (a)(1)-(3) water. Additionally, NJW-B is physically separated from an (a)(1)-(3) water by multiple physical, man-made barriers (berms, roads, etc.) NJW-B is completely encompassed entirely by uplands and lacks a direct or indirect surface connection to (a)(1)-(3) waters.
Non-Jurisdictional Wetland C (NJW-C)	1.54 acres	(b)(1) Non-adjacent wetland	NJW-C does not abut and is not inundated by an (a)(1)-(3) water. Additionally, NJW-C is physically separated from an (a)(1)-(3) water by multiple physical, man-made barriers (berms, roads, etc.) NJW-C is completely encompassed entirely by uplands and lacks a direct or indirect surface connection to (a)(1)-(3) waters.

**III. SUPPORTING INFORMATION**

<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 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.

<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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**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: **ASSOCIATED SURVEYORS OF SUMMERVILLE, "WETLAND SURVEY PLAT ON 46.87 ACRES OF LAND, BEING TAX MAP NO. 007997-02-031" Dated 12/2/2019 (revised 7/16/2020)**

This information is sufficient for purposes of this AJD.

Rationale: **The Corps agrees with the conclusions of the data sheets and submitted report.**

Data sheets prepared by the Corps:

Photographs: *(aerial or other)*

- **Consultant provided photos 1-6 of 6 received in office 10/2/2019.**

- **Google Earth Imagery dated 05/02/2018.**

- **Corps site visit photo report. Photos 1-40 of 40 Dated 6/30/2020**

Corps Site visit(s) conducted on: **11/6/2019 and 6/30/2020**

Previous Jurisdictional Determinations (AJDs or PJDs): **SAC-2007-01939 dated 1/16/2007, and SAC-2013-00950 dated 11/26/2013**

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

USDA NRCS Soil Survey: **NRCS SSURGO Data Layer: Goldsboro, Johnston, Rains.**

USFWS NWI maps: **USFWS National Wetland Inventory**

USGS topographic maps: **Southwest Columbia Quad**

**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 Sources	N/A.
NOAA Sources	N/A.
USACE Sources	SAC Regulatory Viewer
State/Local/Tribal Sources	SCDNR Lexington County LiDAR Data
Other Sources	N/A.

**B. Typical year assessment(s):** Antecedent Precipitation Tool (APT) data for typical year determination was calculated for the date the site was visited by the consultant (9/23/2019) and the dates the site was visited by the Corps (11/6/2019 and 6/30/2020). The September and November visits were considered drier than normal, and the June visit was considered to be within normal conditions. Furthermore, the Corps determined the assessment to reflect hydrologic conditions within a typical year based on the condition value outputs.

**C. Additional comments to support AJD:** The area in review contains approximately 47 acres and includes one jurisdictional water, and four excluded waters. JW-A directly abuts an off-site (a)(2) tributary making it a jurisdictional (a)(4) water. NJW-A, NJW-B, and NJW-C are completely

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encompassed entirely by uplands and lacks a direct or indirect surface connection to (a)(1)-(3) waters. Since, NJW-A, B, and C do not abut an (a)(1)-(3) water, are not inundated by an (a)(1)-(3) water, and are physically separated by more than a single artificial barrier, they are determined to be excluded waters. NJF-A is excavated wholly in uplands making it an excluded water.

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