



**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): 8/24/2020

ORM Number: SAM-1997-00176-LDS

Associated JDs: AL97-00176-L

Review Area Location¹: State/Territory: AL City: Gulf Shores County/Parish/Borough: Baldwin County

Center Coordinates of Review Area: Latitude 30.299079 Longitude -87.635415

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
WOUS 1 (GIWW)	0.18	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	National Wetland Inventory maps indicate the GIWW has a Cowardin classification of E1UBLx, which is Estuarine and Marine Deepwater habitat. GIWW connects Mobile Bay and Pensacola Bay, both of which are tidally influenced. GIWW between Mobile Bay and Pensacola Bay is on the District's Section 10 navigable waters list.
WOUS 2 (GIWW)	0.33	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	National Wetland Inventory maps indicate the GIWW has a Cowardin classification of E1UBLx, which is Estuarine and Marine Deepwater habitat. GIWW connects Mobile Bay and Pensacola Bay, both of which are tidally influenced. GIWW between Mobile Bay and Pensacola Bay is on the District's Section 10 navigable waters list.

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	
WOUS 1 (GIWW)	0.18	acre(s)	(a)(1) Water is also subject to	National Wetland Inventory maps indicate the GIWW has a Cowardin classification of E1UBLx, which is

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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Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³				
(a)(1) Name	(a)(1) Size		(a)(1) Criteria	Rationale for (a)(1) Determination
			Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	Estuarine and Marine Deepwater habitat. GIWW connects Mobile Bay and Pensacola Bay, both of which are tidally influenced. GIWW between Mobile Bay and Pensacola Bay is on the District's Section 10 navigable waters list.
WOUS 2 (GIWW)	0.33	acre(s)	(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.	National Wetland Inventory maps indicate the GIWW has a Cowardin classification of E1UBLx, which is Estuarine and Marine Deepwater habitat. GIWW connects Mobile Bay and Pensacola Bay, both of which are tidally influenced. GIWW between Mobile Bay and Pensacola Bay is on the District's Section 10 navigable waters list.
Emergent Wetland 1	0.05	acre(s)	(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.	Emergent wetland abuts WOUS 1 (GIWW) to the south and is subject to the ebb and flow of the tide.

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.	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.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Forested Wetland 2	0.70	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Forested wetland abuts (a)(1) water (Emergent Wetland 1) directly to the south.

D. Excluded Waters or Features



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
Forested Wetland 1	0.54	acre(s)	(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).	Feature is a roadside ditch on east side of Foley Beach Express (FBE) which was constructed as part of the FBE highway and bridge project in 2000 under DA Permit AL97-00176-L. A wetland delineation provided as part of the 1997 permit application for the highway/bridge showed uplands within the section of roadway where the subject ditch is located. USGS topos also indicate the area was historically uplands. Soil maps show a combination of hydric and non-hydric soils throughout the review area (Rains, Plummer, and Scranton series); however, there are no definitive data demonstrating the subject ditch was constructed in an adjacent wetland or tributary.
Other Water 1	0.82	acre(s)	(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).	Feature is a roadside ditch on west side of Foley Beach Express (FBE) which was constructed as part of the FBE highway and bridge project in 2000 under DA Permit AL97-00176-L. A wetland delineation provided as part of the 1997 permit application for the highway/bridge showed uplands within the section of roadway where the subject ditch is located. USGS topos also indicate the area was historically uplands. Soil maps show a combination of hydric and non-hydric soils throughout the review area (Rains, Plummer, and Scranton series); however, there are no definitive data demonstrating the subject ditch was constructed in an adjacent wetland or tributary.
Other Water 2	0.22	acre(s)	(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).	Feature is a roadside ditch on east side of Foley Beach Express (FBE) service road which was constructed as part of the FBE highway and bridge project in 2000 under DA Permit AL97-00176-L. A wetland delineation provided as part of the 1997 permit application for the highway/bridge showed uplands within the section of roadway where the subject ditch is located. USGS topos also indicate the area was historically uplands. Soil maps show a combination of hydric and non-hydric soils throughout the review area (Rains, Plummer, and Scranton series); however, there are no

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
			definitive data demonstrating the subject ditch was constructed in an adjacent wetland or tributary.
Other Water 3	0.11	acre(s)	(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). Feature is a roadside ditch on east side of Foley Beach Express (FBE) which was constructed as part of the FBE highway and bridge project in 2000 under DA Permit AL97-00176-L. A wetland delineation provided as part of the 1997 permit application for the highway/bridge showed uplands within the section of roadway where the subject ditch is located. USGS topos also indicate the area was historically uplands. Soil maps show a combination of hydric and non-hydric soils throughout the review area (Rains, Plummer, and Scranton series); however, there are no definitive data demonstrating the subject ditch was constructed in an adjacent wetland or tributary.
Other Water 4	0.19	acre(s)	(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). Feature is a roadside ditch on east side of Foley Beach Express (FBE) which was constructed as part of the FBE highway and bridge project in 2000 under DA Permit AL97-00176-L. A wetland delineation provided as part of the 1997 permit application for the highway/bridge showed uplands within the section of roadway where the subject ditch is located. USGS topos also indicate the area was historically uplands. Soil maps show a combination of hydric and non-hydric soils throughout the review area (Rains, Plummer, and Scranton series); however, there are no definitive data demonstrating the subject ditch was constructed in an adjacent wetland or tributary.
Other Water 5	0.21	acre(s)	(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). Feature is a roadside ditch on west side of Foley Beach Express (FBE) which was constructed as part of the FBE highway and bridge project in 2000 under DA Permit AL97-00176-L. A wetland delineation provided as part of the 1997 permit application for the highway/bridge showed uplands within the section of roadway where the subject ditch is located. USGS topos also indicate the area was historically uplands. Soil maps show a combination of hydric and non-hydric soils throughout the review area (Rains, Plummer, and Scranton series); however, there are no definitive data demonstrating the subject ditch was constructed in an adjacent wetland or tributary.



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Other Water 6	0.07 acre(s)	(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).	Feature is a roadside ditch on southwest side of Foley Beach Express (FBE) which was constructed as part of the FBE highway and bridge project in 2000 under DA Permit AL97-00176-L. A wetland delineation provided as part of the 1997 permit application for the highway/bridge showed uplands within the section of roadway where the subject ditch is located. USGS topos also indicate the area was historically uplands. Soil maps show a combination of hydric and non-hydric soils throughout the review area (Rains, Plummer, and Scranton series); however, there are no definitive data demonstrating the subject ditch was constructed in an adjacent wetland or tributary.

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: [Wetland Data Sheets, dated 4/7/20 and 8/14/20; Revised JD Maps, received 7/20/20](#)

This information is sufficient for purposes of this AJD.

Rationale: [Wetland data was collected within the same year as the JD review. Wetland boundaries were desktop verified by the USACE on 8/17/20.](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial and Other: 1955, 1974, and 1997 historic aerials from UA Library; 2004, 2008, 2015, 2018, and 2019 satellite imagery from GoogleEarth; Google StreetView from 2019; Site photos from applicant 4/7/2020](#)
- Corps site visit(s) conducted on: [Date\(s\).](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [Previous delineation – File: AL97-00176-L](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Web Soil Survey, National Cooperative Soil Survey Version 12, May 29, 2020, Baldwin County, Alabama. Available online at <http://websoilsurvey.nrcs.usda.gov/>](#)
- USFWS NWI maps: [NWI Project ID: RO4Y09P04; Baldwin County, AL; Digital 2001 CIR 1-meter Resolution](#)
- USGS topographic maps: [1921 Bon Secour, AL; 1941 Foley, AL; 1980 Gulf Shores, AL; 2018 Gulf Shores, AL](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS National Hydrography Dataset (https://viewer.nationalmap.gov/advanced-viewer/index.html?p=nhd)
USDA Sources	N/A.



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Data Source (select)	Name and/or date and other relevant information
NOAA Sources	N/A.
USACE Sources	USACE, Mobile District Section 10 Navigable Waterways List
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): N/A. The (a)(4) wetlands were determined to be jurisdictional due to abutting an (a)(1) water (the GIWW), and therefore did not require a typical year assessment. Likewise the (b)(5) ditches did not require a typical year assessment to determine a flow regime, as these features were not constructed in an (a)(2) tributary, (a)(4) wetland, nor did they relocate any (a)(2) tributary.

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