



**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): 7/8/2020

ORM Number: SAM-2006-00428-MBM

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 30.2816 Longitude -87.6516

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
Gulf Intracoastal Waterway (GIWW)	9,313	linear feet	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
Gulf Intracoastal Waterway (GIWW)	9,313	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.	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.

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
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
Lines 1-4 (Minus Line 6)	24.58	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland abuts the north side of the GIWW, which is an (a)(1) water. Entire wetland area is within Lines 1-4, excepting an isolated area of uplands delineated by Line 6. Final calculated area for Lines 1-4 is 24.58 acres, which is a total area of 24.77 acres minus 0.55 acres of isolated uplands delineated by Line 6 (as shown on the attached AJD Maps). Line 2 wetland boundaries extend northwest outside of the review area and are part of Line 1 wetlands to the west.
Line 5	1.64	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland abuts the north side of the GIWW, which is an (a)(1) water.
Line 7	0.03	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland abuts the north side of the GIWW, which is an (a)(1) water.
Line 8	0.01	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland abuts the north side of the GIWW, which is an (a)(1) water.
Line 16	0.11	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland abuts the north side of the GIWW, which is an (a)(1) water.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Line 9	0.01	acre(s)	(b)(1) Non-adjacent wetland.	Wetland is a depressional area that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 1,600 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year (Zone X shaded). USACE previously determined this

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
			wetland to be non-jurisdictional in 2003, 2009, and 2014 under DA Files ALJ03-02510-E and SAM-2006-00428-MBM
Line 10	0.10	acre(s)	(b)(1) Non-adjacent wetland. Wetland is a depressional area that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 1,550 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year (Zone X shaded). Line 10 is located approximately 100 feet west of Line 5, which is an (a)(4) water, but the two waters are separated by an upland berm with no hydrologic surface connection. USACE previously determined this wetland to be non-jurisdictional in 2003, 2009, and 2014 under DA Files ALJ03-02510-E and SAM-2006-00428-MBM.
Line 11	0.01	acre(s)	(b)(1) Non-adjacent wetland. Wetland is a depressional area that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 500 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year (Zone X). USACE previously determined this wetland to be non-jurisdictional in 2003, 2009, and 2014 under DA Files ALJ03-02510-E and SAM-2006-00428-MBM.
Line 12	0.01	acre(s)	(b)(1) Non-adjacent wetland. Wetland is a depressional area north of Line 11 that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 550 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year (Zone X). USACE previously determined this wetland to be non-jurisdictional in 2003, 2009, and 2014 under DA Files ALJ03-02510-E and SAM-2006-00428-MBM.
Line 13	0.03	acre(s)	(b)(1) Non-adjacent wetland. Wetland is a depressional area that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 650 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year (Zone X shaded). USACE previously determined this wetland to be non-jurisdictional in 2003, 2009, and 2014 under DA Files ALJ03-02510-E and SAM-2006-00428-MBM.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
Line 14	0.11	acre(s)	(b)(1) Non-adjacent wetland.	Wetland is a depressional area south of Line 13 that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 750 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year (Zone X). Line 14 is separated from the West Outfall Easement (i.e. non-jurisdictional ditch) by a contiguous berm on its east boundary and does not have any direct surface hydrologic connection to West Outfall Easement. USACE previously determined this wetland to be non-jurisdictional in 2003, 2009, and 2014 under DA Files ALJ03-02510-E and SAM-2006-00428-MBM.
Line 15	0.66	acre(s)	(b)(1) Non-adjacent wetland.	Wetland is a depressional area that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 750 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year (Zone X shaded). Line 15 is located west of a remnant ditch feature, but is geographically separated by an upland road crossing, with no direct hydrologic surface connection. USACE previously determined this wetland to be non-jurisdictional in 2003, 2009, and 2014 under DA Files ALJ03-02510-E and SAM-2006-00428-MBM.
Line 20a	0.10	acre(s)	(b)(1) Non-adjacent wetland.	Wetland is a depressional area that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 1,550 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year (Zone X). Line 20a is located within the former USACE Dredge Disposal Area 52 area which was relocated to the north in 2005. All remnant drainage ditches associated with the former disposal area have been disturbed and no longer provide connection between the former disposal area and the GIWW to the south. Line 20a is located south of an off-site drainage ditch associated with the relocated USACE dredge disposal area, but is geographically separated by an upland berm, with no direct hydrologic surface connection. USACE previously determined this wetland to be non-jurisdictional



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			in 2003, 2009, and 2014 under DA Files ALJ03-02510-E and SAM-2006-00428-MBM.
Line 20b	0.15	acre(s)	(b)(1) Non-adjacent wetland. Wetland is a depressional area that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 850 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year (Zone X). Line 20b is located within the former USACE Dredge Disposal Area 52 area which was relocated to the north in 2005. All remnant drainage ditches associated with the former disposal area have been disturbed and no longer provide connection between the former disposal area and the GIWW to the south. USACE previously determined this wetland to be non-jurisdictional in 2003, 2009, and 2014 under DA Files ALJ03-02510-E and SAM-2006-00428-MBM.
Line 39	0.07	acre(s)	(b)(1) Non-adjacent wetland. Wetland is a depressional area that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 1,200 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year (Zone X). Line 39 is located within the former USACE Dredge Disposal Area 52 area which was relocated to the north in 2005. All remnant drainage ditches associated with the former disposal area have been disturbed and no longer provide connection between the former disposal area and the GIWW to the south. USACE previously determined this wetland to be non-jurisdictional in 2003, 2009, and 2014 under DA Files ALJ03-02510-E and SAM-2006-00428-MBM.
Line 42	0.01	acre(s)	(b)(1) Non-adjacent wetland. Wetland is a depressional area that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 1,000 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year (Zone X). Line 42 is located within the former USACE Dredge Disposal Area 52 area which was relocated to the north in 2005. All remnant drainage ditches associated with the former disposal area have been disturbed and no longer provide connection between the former disposal



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			area and the GIWW to the south. USACE previously determined this wetland to be non-jurisdictional in 2003, 2009, and 2014 under DA Files ALJ03-02510-E and SAM-2006-00428-MBM.
Line 43	0.003	acre(s)	(b)(1) Non-adjacent wetland. Wetland is a depressional area that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 1,000 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year (Zone X). Line 43 is located within the former USACE Dredge Disposal Area 52 area which was relocated to the north in 2005. All remnant drainage ditches associated with the former disposal area have been disturbed and no longer provide connection between the former disposal area and the GIWW to the south. USACE previously determined this wetland to be non-jurisdictional in 2003, 2009, and 2014 under DA Files ALJ03-02510-E and SAM-2006-00428-MBM.
Line 44	0.01	acre(s)	(b)(1) Non-adjacent wetland. Wetland is a depressional area that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 1,200 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year (Zone X). Line 44 is located within the former USACE Dredge Disposal Area 52 area which was relocated to the north in 2005. All remnant drainage ditches associated with the former disposal area have been disturbed and no longer provide connection between the former disposal area and the GIWW to the south. USACE previously determined this wetland to be non-jurisdictional in 2003, 2009, and 2014 under DA Files ALJ03-02510-E and SAM-2006-00428-MBM.
Line 45	0.11	acre(s)	(b)(1) Non-adjacent wetland. Wetland is a depressional area that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 1,250 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year (Zone X). Line 45 is located within the former USACE Dredge Disposal Area 52 area which was relocated to the north in 2005. All remnant



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			drainage ditches associated with the former disposal area have been disturbed and no longer provide connection between the former disposal area and the GIWW to the south. USACE previously determined this wetland to be non-jurisdictional in 2003, 2009, and 2014 under DA Files ALJ03-02510-E and SAM-2006-00428-MBM.
Line 46	0.02	acre(s)	(b)(1) Non-adjacent wetland. Wetland is a depressional area that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 1,350 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year (Zone X). Line 46 is located within the former USACE Dredge Disposal Area 52 area which was relocated to the north in 2005. All remnant drainage ditches associated with the former disposal area have been disturbed and no longer provide connection between the former disposal area and the GIWW to the south. USACE previously determined this wetland to be non-jurisdictional in 2003, 2009, and 2014 under DA Files ALJ03-02510-E and SAM-2006-00428-MBM.
Excavated Swale	712	linear feet	(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). Ditch is a remnant drainage channel which appears to have been excavated in uplands for dredge spoil dewatering during original excavation of the GIWW in the 1940s. The ditch later appears to have been utilized to convey water from a constructed USACE dredge material disposal area near the central portion of the review area. The USACE Dredge Disposal Area 52 was relocated to the north in 2005 and the associated ditch connection to the dewatering cell was severed during earthmoving disturbances associated with relocation. The ditch begins at a roadway crossing south of the old dewatering cell and flows south towards the GIWW for approximately 712 feet before reaching the Line 16 wetland, which is considered an (a)(4) water. An approximately 64 square foot area of wetlands have formed within the northern portion of the ditch. Although flow in the ditch is directly to an (a)(1) water (the GIWW), historic aerials, soil maps, and USGS topos do not indicate the ditch was constructed



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			in an (a)(2) tributary or (a)(4) wetland, nor does the ditch relocate any (a)(2) tributary.
East Outfall Easement	1627	linear feet	(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). Ditch is part of the active USACE Dredge Disposal Area 52, and was excavated in uplands in 2005 during relocation and expansion of the disposal area. The ditch begins at the east side of the USACE Dredge Disposal Area 52 and flows southeast for approximately 1,627 feet before reaching the GIWW, which is an (a)(1) water. Although flow in the ditch is directly to an (a)(1) water, historic aerials, soil maps, and USGS topos do not indicate the ditch was constructed in an (a)(2) tributary or (a)(4) wetland, nor does the ditch relocate any (a)(2) tributary.
West Outfall Easement	1117	linear feet	(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). Ditch is part of the active USACE Dredge Disposal Area 52, and was excavated in uplands in 2005 during relocation and expansion of the disposal area. The ditch begins at the west side of the USACE Dredge Disposal Area 52 and flows south for approximately 1,117 feet before reaching the GIWW, which is an (a)(1) water. Although flow in the ditch is directly to an (a)(1) water, historic aerials, soil maps, and USGS topos do not indicate the ditch was constructed in an (a)(2) tributary or (a)(4) wetland, nor does the ditch relocate any (a)(2) tributary. The subject ditch is in close proximity to Line 14 wetland; however, this wetland was determined to be a excluded under (b)(1) and appears to have formed due to the historic earthmoving activities at the site and therefore would not be considered a historic (a)(4) wetland.

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 6/30/2009; Revised Delineation Maps, dated July 2020](#)

This information is sufficient for purposes of this AJD.

Rationale: [Wetland data still valid for purposes of verifying existing wetland boundaries; all boundaries were field verified by Corps on 2/19/2020.](#)

- Data sheets prepared by the Corps: [N/A](#)
- Photographs: [Aerial and Other: 1955, 1960, 1974 historic aerial imagery from UA Library; 1998, 2004, 2019 satellite imagery from GoogleEarth; site photos collected by Corps during 2/19/2020 field visit.](#)
- Corps site visit(s) conducted on: [2/19/2020](#)



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- Previous Jurisdictional Determinations (AJDs or PJDs): ALJ03-02510-E, July 24, 2003; SAM-2006-00428-MBM, September 15, 2009; SAM-2006-00428-MBM, April 30, 2014
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Web Soil Survey, National Cooperative Soil Survey Version 11 Sept. 16, 2019, 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: 1941 Foley, AL 1:62,500; 1980 Gulf Shores, AL 1:24,000; 2018 Gulf Shores, AL 1:24,0000

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.
NOAA Sources	N/A.
USACE Sources	USACE Dredge Placement Area GIS Layer (https://geospatial-usace.opendata.arcgis.com/)
State/Local/Tribal Sources	N/A.
Other Sources	FEMA Flood Maps: FIRMs 01003C0941M, 01003C0942M

B. Typical year assessment(s): A typical year assessment was performed in order to determine if the non-jurisdictional (b)(1) wetlands are inundated by flooding from an (a)(1)-(a)(3) water during a typical year. As a result of the assessment, the USACE determined that the listed (b)(1) wetlands are not subject to inundation by flooding from (a)(1)-(a)(3) waters based on the following factors:

- i. Antecedant Precipitation Tool (APT) point-in-time data generated for the date of the USACE field visit on 2/19/2020 indicate that the field visit occurred during wetter than normal conditions across the three-month assessment period, with the most recent two preceeding 30-day periods indicating conditions were wetter than normal. Furthermore, the APT data indicate that drought conditions were normal at the time of the USACE field visit, and the visit was conducted during the wet season.
- ii. During the USACE field visit on 2/19/2020, no evidence of flooding was observed in any of the (b)(1) wetlands identified within the review area. In some wetland areas (such as Line 15), the USACE observed water marks on trees; however, this was attributed to the localized concavity of the ground surface rather than inundation by flooding, as water marks were not observed on vegetation adjacent to the depressional areas.
- iii. Aerial imagery between 1955 to 2019 do not show evidence of inundation within the (b)(1) wetlands identified within the review area.
- iv. FEMA Flood Maps indicate that all (b)(1) wetlands are within Zone X or Zone X Shaded, which indicates that these areas are above the 100-year flood plain and have between a 0.2% to 1.0% annual probability of flooding each year.

This typical year assessment was not performed on the (a)(4) wetlands and (b)(5) ditches within the review



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area. The (a)(4) wetlands were all 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.