



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): December 17, 2020
ORM Number: SAM-2012-00114-JEB (Deer Street Holdings, LLC – 53-Acre Property in Timber Creek Subdivision)
Associated JDs: N/A
Review Area Location¹:
State/Territory: AL City: Daphne County/Parish/Borough: Baldwin County
Center Coordinates of Review Area: Latitude 30.662787° Longitude -87.873686°

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
D'Olive Creek; 12-114	3,075 feet x 6 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The subject water is D'Olive Creek. On-site observations found the waterway to be approximately 6-feet wide with distinct bed and bank and Ordinary High Water Marks. The USGS topographic map designates Stream 1 as a Perennial feature. On-site observations combined with desktop review of relevant data confirms Stream 1 is perennial, contributing surface water flow to Mobile Bay (an (a)(1) waterbody) in a typical year and is therefore jurisdictional.

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 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.

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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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
Wetland 1:12-114	16 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Desktop review of elevation data for the subject property obtained from the USGS National Map web application found Wetland 1 to be topographically connected to, and directly abutting, D'Olive Creek (an (a)(2) waterbody). On-site observations found no topographic features which would cause a physical disconnection between Wetland 1 to the abutting D'Olive Creek. The USFWS National Wetlands Inventory indicate Wetland 1 (PF04 Mixed hardwood forested wetland) to be contiguously connected to Stream 1. On-site observations combined with desktop review of the above referenced resources confirms Wetland 1 to be jurisdictional.
Wetland 2;12-114	2.65 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 2 consists of a 2.65-acre mixed hardwood forested wetland which contains a small drainage feature that is approximately 2-feet wide with indistinct bed and bank features. The USGS topographic map does not indicate a stream at this location. On-site observations combined with desktop review of relevant data confirms this drainage feature is ephemeral and does not exhibit perennial or intermittent flow during a typical year. It flows to the north into Wetland 1. Wetland 1 and Wetland 2 are contiguous, therefore Wetland 2 is part of a continuous wetland area that abuts D'Olive Creek (an (a)(2) waterbody).
Wetland 3; 12-114	0.35 acre	(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.	Wetland 3 was once contiguous with Wetland 2 but is now separated from Wetland 2 by a man-made road. However Wetland 3 has a direct hydrologic connection in a typical year to Wetland 2 and D'Olive Creek via a culvert under the road.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland 4; 12-114	0.003 acres	(b)(1) Non-adjacent wetland	This area exhibits no surface water connection and does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.
Wetland 5; 12-114	0.004 acres	(b)(1) Non-adjacent wetland	This area exhibits no surface water connection and does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.

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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: Data forms and site maps submitted by agent (Wetland Resources Environmental Consulting).

This information is sufficient for purposes of this AJD.

Rationale: Submitted data forms and site maps were reviewed and found to be accurate and sufficient for completion of our review.

Data sheets prepared by the Corps: *Title(s) and/or date(s)*.

Photographs: *Aerial Photographs: Google Earth historic and current (Nov 2019)*

Corps Site visit(s) conducted on: *April 17, 2012*

Previous Jurisdictional Determinations (AJDs or PJDs): *Same ORM # - April 17, 2012*

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

USDA NRCS Soil Survey: NRCS online Web Soil Survey

USFWS NWI maps: Google Earth FWS NWI overlay.

USGS topographic maps: ORM USGS overlay

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	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): N/A.

C. Additional comments to support AJD: This is a renewal of a previous AJD field verified in 2012. Site conditions have not changed.

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