



**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): 12/29/2020
 ORM Number: SAM-2015-00073-JEB
 Associated JDs: SAM-2015-00073-JEB (2015)
 Review Area Location¹: State/Territory: AL City: Gulf Shores County/Parish/Borough: Baldwin
 Center Coordinates of Review Area: Latitude 30.316793 Longitude -87.653604

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
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
Stream 2	1,050 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 2 is a perennial tributary of Cotton Creek (a)(2) that drains directly to the Gulf Intracoastal Waterway (GIWW) (an (a)(1) water). Further discussion is provided in III(B).
Stream 3	160 linear feet	(a)(2) Intermittent tributary contributes	Stream 3 is an intermittent tributary of Cotton Creek (a)(2) which drains directly to the GIWW (a)(1). Further discussion is provided in III(B).

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
		surface water flow directly or indirectly to an (a)(1) water in a typical year.	

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	8.84	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.
Wetland 2	0.03	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.
Wetland 3	49.00	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.
Wetland 4	19.31	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
N/A	N/A	N/A.	N/A.	N/A

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: [Volkert, Inc. Wetland Reverification – 12/03/2020](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).

Photographs: [Aerial and Other: Google Earth Pro 1992 and 2019; University of Alabama Air Photo Archive 1955; Site visit photo of Stream 1 \(12/11/2020\)](#)

Corps site visit(s) conducted on: [12/11/2020](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [SAM-2015-00073-JEB \(05/18/2015\)](#)

Antecedent Precipitation Tool: [*provide detailed discussion in Section III.B.*](#)

USDA NRCS Soil Survey: [SSURGO \(Export: 05/29/2020\)](#)

USFWS NWI maps: [The National Map – Advanced Viewer \(12/07/2020\)](#)

USGS topographic maps: [Gulf Shores, AL 1:24,000 \(1980; 2018\)](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS/WBD/NHD data/maps	The National Map – Advanced Viewer Web Application NHD; StreamStats Web Application
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): [Review of the National Hydrography Dataset found Stream 2 to be identified as a perennial tributary and Stream 3 as intermittent. Both features can also be observed in USGS Topographic maps as tributaries of Cotton Creek \(a\)\(2\), with Stream 2 being identified as a perennial and Stream 3 as intermittent. The NRCS SoilWeb indicates soils within Stream 2, Stream 3, and Wetland 1 as hydric, consisting of Hyde \(40%\), Bayboro \(30%\), and Dorovan \(30%\). Typical geomorphic position for Hyde soils are within floodplains; while Dorovan and Bayboro are characteristic of depressional features. All three features are buffered by Rains \(90%\), also poorly drained and identified as hydric. Utilizing the Antecedent Precipitation Tool, it was estimated that the 11 Dec 2020 site visit was performed during a](#)

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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month of dry conditions, but was preceded by two consecutive months of normal conditions. As described in Section C above, the site visit found surface water and dense aquatic vegetation within Wetland 1, with a culvert allowing waters to flow from the feature for approximately 230-feet east, under the single artificial feature (Foley Beach Expressway), maintaining a continuous hydrologic connection to the adjacent wetlands abutting Cotton Creek. Employing the USGS StreamStats Web Application Network Path tool, the flow path from point coordinates within Stream 3 indicate the feature flows into Cotton Creek and eventually to the nearby Gulf Intracoastal Waterway (GIWW), which is a Section 10 (a)(1) water. USACE desktop review found consistent data supporting the classification of the two stream features using the resources identified above, and has determined Stream 2 to be perennial and Stream 3 intermittent, during a typical year. Desktop review combined with site visit findings confirmed that Wetland 1 remains connected to wetlands abutting Cotton Creek; therefore, all three features are considered jurisdictional under the NWPR.

C. Additional comments to support AJD: N/A