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): 6/24/2021
ORM Number: SAM-2017-00628-JEB
Associated JDs: SAM-2017-00628-JEB (Issued 2/19/2020)
Review Area Location[1]: State/Territory: AL City: Gulf Shores County/Parish/Borough: Baldwin
Center Coordinates of Review Area: Latitude 30.284638 Longitude -87.697453

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.	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.	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.	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
Wetland 1	0.56	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3)	Wetland 1 is part of a larger offsite wetland system to the north which drains south/southwest to the CR-4 causeway 0.90 miles to the west, then south via

[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.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
			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.	road culvert located at 30.282546, -87.725052, to Oyster Bay, which is an (a)(1) water subject to the ebb and flow of the tide. The culvert maintains hydrologic surface connection across the artificial barrier throughout the entire year, as it is at or near the same elevation as the adjacent (a)(1) water and is subject to the ebb and flow of the tide and inundation from the (a)(1) during a typical year.
Wetland 2	0.54	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 is part of a larger offsite wetland system to the north which drains south/southwest to the CR-4 causeway 0.90 miles to the west, then south via road culvert located at 30.282546, -87.725052, to Oyster Bay, which is an (a)(1) water subject to the ebb and flow of the tide. The culvert maintains hydrologic surface connection across the artificial barrier throughout the entire year, as it is at or near the same elevation as the adjacent (a)(1) water and is subject to the ebb and flow of the tide and inundation from the (a)(1) during a typical year.
Wetland 3	12.54	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 3 is part of a larger offsite wetland system to the north which drains south/southwest to the CR-4 causeway 0.90 miles to the west, then south via road culvert located at 30.282546, -87.725052, to Oyster Bay, which is an (a)(1) water subject to the ebb and flow of the tide. The culvert maintains hydrologic surface connection across the artificial barrier throughout the entire year, as it is at or near the same elevation as the adjacent (a)(1) water and is subject to the ebb and flow of the tide and inundation from the (a)(1) during a typical year.
Wetland 4	16.64	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection	Wetland 4 is part of a larger offsite wetland system to the north which drains south/southwest to the CR-4 causeway 0.90 miles to the west, then south via road culvert located at 30.282546, -87.725052, to Oyster Bay, which is an (a)(1) water subject to the ebb and flow of the tide. The culvert maintains hydrologic surface connection across the artificial barrier throughout the entire year, as it is at or near the same elevation as the adjacent (a)(1) water and

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
			between the wetland and the (a)(1)-(a)(3) water, in a typical year.	is subject to the ebb and flow of the tide and inundation from the (a)(1) during a typical year.
Wetland 6	1.39	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 6 is part of a larger offsite wetland system to the north which drains south/southwest to the CR-4 causeway 0.90 miles to the west, then south via road culvert located at 30.282546, -87.725052, to Oyster Bay, which is an (a)(1) water subject to the ebb and flow of the tide. The culvert maintains hydrologic surface connection across the artificial barrier throughout the entire year, as it is at or near the same elevation as the adjacent (a)(1) water and is subject to the ebb and flow of the tide and inundation from the (a)(1) during a typical year. Wetland 6 also contributes flow to a series of man-made ditches to the south, which flow south and west into the Gulf Intracoastal Waterway directly south of CR-4.
Wetland 7	52.68	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 7 is part of a larger off-site wetland system to the north which drains south/southwest to the CR-4 causeway 0.90 miles to the west, then south via road culvert located at 30.282546, -87.725052, to Oyster Bay, which is an (a)(1) water subject to the ebb and flow of the tide. The culvert maintains hydrologic surface connection across the artificial barrier throughout the entire year, as it is at or near the same elevation as the adjacent (a)(1) water and is subject to the ebb and flow of the tide and inundation from the (a)(1) during a typical year. Wetland 7 also contributes flow to a series of man-made ditches to the south, which flow south and west into the Gulf Intracoastal Waterway directly south of CR-4.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Ditch 1	2,077	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of	Ditch 1 is a man-made ditch in uplands, located approximately 100 feet north of CR-4 and which provides intermittent or perennial drainage southwest towards the Gulf Intracoastal

[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.

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
			a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Waterway (GIWW). Historic aerials indicate the feature was a roadside ditch constructed prior to 1955 between Highway 59 to Oyster Bay to the west. Aerials from 1974 show the ditch and associated roadway were abandoned after construction of CR-4 and the GIWW to the south. There are limited available data demonstrating whether the ditch was located in an adjacent wetland at the time of construction. Historic topographic maps show both wetlands and uplands within the general area of Ditch 1. Soil maps of the parcel indicate a combination of hydric and non-hydric soils in the vicinity of the ditch. While National Wetland Inventory maps show the entire parcel as wetlands, field data collected in April 2021 show the adjacent areas surrounding the ditch as uplands.
Ditch 2	564	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 2 is a man-made ditch in uplands, located approximately 100 feet north of CR-4 and which provides intermittent or perennial drainage southeast towards the GIWW. Historic aerials indicate the feature was a roadside ditch constructed prior to 1955 between Highway 59 to Oyster Bay to the west. Aerials from 1974 show the ditch and associated roadway were abandoned after construction of CR-4 and the GIWW to the south. There are limited available data demonstrating whether the ditch was located in an adjacent wetland at the time of construction. Historic topographic maps show both wetlands and uplands within the general area of Ditch 2. Soil maps of the parcel indicate a combination of hydric and non-hydric soils in the vicinity of the ditch. While National Wetland Inventory maps show the entire parcel as wetlands, field data collected in April 2021 show the adjacent areas surrounding the ditch as uplands.
Ditch 3	1,058	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	Ditch 3 is a man-made ditch in uplands, located north of CR-4 and which provides perennial drainage south towards CR-4 and the GIWW. Historic aerials indicate the feature was a farm/silviculture ditch constructed in the 1960s or 1970s. Aerials from 1974 show the ditch on the west side of the property access road (Trey Lane), flowing north to south to the series of roadside ditches along CR-4 to the south. There

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
			conditions of (c)(1).	are limited available data demonstrating whether the ditch was located in an adjacent wetland at the time of construction. Historic topographic maps show both wetlands and uplands within the general area of Ditch 3. Soil maps of the parcel indicate a combination of hydric and non-hydric soils in the vicinity of the ditch. While National Wetland Inventory maps show the entire parcel as wetlands, field data collected in April 2021 show the adjacent areas surrounding the ditch as uplands
Ditch 4	2,851	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 4 is a man-made ditch in uplands, located approximately 150 feet north of CR-4 and which provides intermittent or perennial drainage southeast towards the GIWW. Historic aerials indicate the feature was a roadside ditch constructed prior to 1955 between Highway 59 to Oyster Bay to the west. Aerials from 1974 show the ditch and associated roadway were abandoned after construction of CR-4 and the GIWW to the south. There are limited available data demonstrating whether the ditch was located in an adjacent wetland at the time of construction. Historic topographic maps show both wetlands and uplands within the general area of Ditch 4. Soil maps of the parcel indicate a combination of hydric and non-hydric soils in the vicinity of the ditch. While National Wetland Inventory maps show the entire parcel as wetlands, field data collected in April 2021 show the adjacent areas surrounding the ditch as uplands.
Wetland 5	1.25	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 5 is a depressional area that is geographically separated from the nearest (a)(1) water (GIWW) by approximately 1,300 feet of uplands with no direct hydrologic surface connection, and is not inundated by flooding from the GIWW during a typical year.

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 (June 1, 2021); Revised Delineation Maps (June 17, 2021); Previous AJD (Feb 19, 2020)

This information is sufficient for purposes of this AJD.

Rationale: Boundaries of Wetlands 1-7 (excluding Wetland 5) previously verified by Corps on May 31, 2018 and May 14, 2019. Boundaries of ditches verified by Corps on April 21, 2021

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

☒ Photographs: Aerial and Other: 1955, 1974 historic aerial imagery from UA Library; 2008 and 2020 aerial imagery from GoogleEarth

☒ Corps site visit(s) conducted on: 5/31/2018, 5/14/2019, and 4/21/21

☒ Previous Jurisdictional Determinations (AJDs or PJDs): SAM-2017-00628-JEB, issued 2/19/2020

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

☒ USDA NRCS Soil Survey: Web Soil Survey - 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: USGS Topographic Maps: 1960 (Pensacola FL 1:250,000); 1978 (Pensacola FL 1:100,000); 1980 (Gulf Shores, AL 1:24,000);

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): 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. And whether the jurisdictional (a)(4) wetlands have hydrologic connection through an artificial barrier 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 4/21/2021 indicate that the field visit occurred during normal hydrologic conditions across the three-month assessment period, with the most recent two preceeding 30-day periods indicating conditions were normal or slightly drier than normal. Furthermore, the APT data indicate that drought conditions were “mild wetness” at the time of the USACE field visit, and the visit was conducted during the wet season.

ii. During the USACE field visit on 4/21/2021, no evidence of flooding was observed in any of the (b)(1) wetland identified within the review area. The USACE did not observe water marks on trees or other indicators of flooding from a nearby (a)(1)-(a)(3) water.

iii. Aerial imagery between 1955 to 2020 do not show evidence of inundation within the (b)(1) wetland identified within the review area.

As a result of the assessment, the USACE determined that the listed (a)(4) wetlands have hydrologic connection to the (a)(1) water (Oyster Bay) during a typical year based on the following factors:

i. Antecedant Precipitation Tool (APT) point-in-time data generated for the date of the USACE field visit on 4/21/2021 indicate that the field visit occurred during normal hydrologic conditions across the three-month assessment period, with the most recent two preceeding 30-day periods indicating conditions were normal or slightly drier than normal. Furthermore, the APT data indicate that drought conditions were “mild wetness” at the time of the USACE field visit, and the visit was conducted during the wet season.

ii. During the USACE field visit on 4/21/2021, evidence of hydrologic connection was observed between the wetlands on the north side of CR-4 and the wetlands/Oyster Bay on the south side of CR-4, south of the culvert. Likwewise, Google StreetView imagery from May and December 2016 show evidence of hydrologic connection through the subject culvert, indicating that they connection is persistent throughout most (if not all) of a typical calendar year.

This typical year assessment was not performed on the (b)(5) ditches within the review area. 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.