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): 7/16/2021
ORM Number: SAM-2018-00685-AKG
Associated JDs: N/A
Review Area Location[1]: State/Territory: AL City: Daphne County/Parish/Borough: Baldwin County
Center Coordinates of Review Area: Latitude 30.616011° Longitude -87.827515°

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

[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
W-1	41	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-1 is part of a larger wetland system that drains to and abuts Fish River, an (a(1)) water.
W-2	48	acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-2 is part of a larger wetland system that drains to and abuts Fish River, an (a(1)) water.
W-3	22.8	acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-3 is part of a larger wetland system that drains to and abuts Fish River, an (a(1)) water.
Impoundment	1.2	acres	(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.	Feature labeled as "Impoundment" is a shallow pond excavated entirely from jurisdictional wetlands. A small berm exists around portions of the pond (likely consisting of excavated material), but the larger wetland boundary extends around all sides of the impoundment and a surface connection between the pond and surrounding wetlands is visible on aerial imagery. The depression was created from jurisdictional waters within the same elevation as the observed wetlands on all available historic topographic maps of the area. The pond is visible on aerials and surrounded by the observed wetlands back to 1997. Given the shallow depth of the ponded area, it is defined as a palustrine wetland feature.

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: GCOF Reserve at Daphne LLC JD Request (6/15/2021)

This information is sufficient for purposes of this AJD.

Rationale: An extensive desktop evaluation based on topographic maps, digital elevation models, historic aerial photographs, soil maps, the Antecedent Precipitation Tool, and an analysis of historical impacts to the review area, along with an inspection of the site by Mobile District personnel on March 20, 2019,

[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.

indicate the wetlands in the subject review area are all directly abutting Fish River, a nearby jurisdictional waters.

☐ Data sheets prepared by the Corps: Title(s) and/or date(s).
☒ Photographs: Aerial: Google Earth Pro (2/1997 -11/2019)
☒ Corps site visit(s) conducted on: March 20, 2019
☐ Previous Jurisdictional Determinations (AJDs or PJDs): ORM Number(s) and date(s).
☒ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B*.
☒ USDA NRCS Soil Survey: SSURGO .kmz for Google Earth (Export 05/29/2020)
☒ USFWS NWI maps: USFWS NWI Map layer obtained from USGS The National National Regulatory Viewer on February 18, 2021
☒ USGS topographic maps: 1940 Silverhill, AL 1:31680; 1941 Fairhope, AL 1:62500, 1941 Silverhill, AL 1:31680; 1941 Fairhope, AL 1:31680, 1953 Silverhill, AL 1:24000

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS The National Map Web Application: NHD, USGS 3D Elevation Program Hillshade stretched and auto contours, National Regulatory Viewer: LiDAR Digital Elevation Models, NDVI
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A
FEMA/FIRM maps	Firmette PANEL: 01003C0655M (eff. 04/19/2019)

B. Typical year assessment(s): A typical year assessment was performed in order to determine if the jurisdictional (a)(4) wetlands have hydrologic surface connection during a typical year.

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

i. Antecedant Precipitation Tool (APT) point-in-time data generated for the date of visible inundation imagery 11/17/2020 occurred during normal hydrologic conditions across the three-month assessment period, with the most recent two preceeding 30-day periods indicating conditions were 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 3/20/2019, evidence of hydrologic connection was observed between the larger wetland on the north side impoundment. Hydric soils, appropriate vegetation, and hydrologic indicators were present up to and including the berm on the north side of the impoundment.

C. Additional comments to support AJD: N/A