



**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): 10/30/2020

ORM Number: SAM-2019-00975-JDC

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Alabama City: Albertville County/Parish/Borough: Marshall

Center Coordinates of Review Area: Latitude 34.230973 Longitude -86.163624

**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)<sup>2</sup>**

| § 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): <sup>3</sup> |             |      |                 |                                    |
|---|-------------|------|-----------------|------------------------------------|
| (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  |
| Intermittent Stream / UT to Slab Creek | 528         | linear feet | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year. | Based on a field assessment, review of available desktop resources, and information provided by the applicant and consultant, the 3,113 square-foot (0.07-acre) intermittent stream in the JD review area is an unnamed tributary that contributes surface water flow indirectly to an (a)(1) water in a typical year. The tributary within the review area measures 528 linear feet by approximately 5.9 width feet. |

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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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|   |             |                 |                                    |  |
|---|-------------|-----------------|------------------------------------|--|
| 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 |  |
| N/A.                               | N/A.        | N/A.            | N/A.                               |  |

**D. Excluded Waters or Features**

|  |                |                        |                                       |  |
|--|----------------|------------------------|---------------------------------------|--|
| Excluded waters ((b)(1) – (b)(12)): <sup>4</sup> |                |                        |                                       |  |
| Exclusion Name                                   | Exclusion Size | Exclusion <sup>5</sup> | Rationale for Exclusion Determination |  |
| 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: [Jurisdictional Determination request submitted by Burns Environmental, LLC, dated September 25, 2019. Additional maps submitted 30 December 2019, 7 February 2020, and 14 August 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: 3/4/2019 color digital aerial photo downloaded from Google Earth and color digital photographs taken by USACE during Feb. 27, 2020 site visit.](#)
- Corps site visit(s) conducted on: [February 27, 2020.](#)
- 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: [Web Soil Survey Map Version 15, May 28, 2020, Marshall County, Alabama, downloaded from http://websoilsurvey.nrcs.usda.gov.](#)
- USFWS NWI maps: [NWI map downloaded from https://www.fws.gov/wetlands/Data/mapper.html](#)
- USGS topographic maps: [Boaz, AL 1:24,000 7.5 minute quadrangle](#)

**Other data sources used to aid in this determination:**

| Data Source (select)                       | Name and/or date and other relevant information   |
|--|---|
| <a href="#">USGS Sources</a>               | <a href="#">The National Map Advanced Viewer – NHD dataset layer; https://viewer.nationalmap.gov/advanced-viewer/</a> |
| <a href="#">USDA Sources</a>               | <a href="#">N/A.</a>  |
| <a href="#">NOAA Sources</a>               | <a href="#">N/A.</a>  |
| <a href="#">USACE Sources</a>              | <a href="#">Mobile District Navigable Waterways list of the State of Alabama</a>                                      |
| <a href="#">State/Local/Tribal Sources</a> | <a href="#">N/A.</a>  |
| <a href="#">EPA sources (specify)</a>      | <a href="#">EPA WATERS GeoViewer; https://www.epa.gov/waterdata/waters-geoviewer</a>                                  |

<sup>4</sup> 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.

<sup>5</sup> 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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- B. Typical year assessment(s):** At the time of USACE site visit, 27 February 2020, stream appeared to support perennial flow regime an average of 6 to 8 inches deep. Upon evaluation using the APT tool it was determined the site visit had been conducted during the wet season and at a time of wetter than normal conditions. Based on this information it was determined that the observed, apparent perennial conditions in February 2020 likely over-represent the normal flow conditions of the tributary. Based on the collective APT information along with desktop mapping resources (NWI, USGS topographic mapping, USGS NHD mapping) indicating the tributary carries intermittent flow, and field observation, the Mobile District has determined the tributary supports an intermittent flow regime that contributes surface water flow indirectly to an (a)(1) water in a typical year.
- C. Additional comments to support AJD:** The unnamed tributary (UT) to Slab Creek within the JD review area flows through 2 downstream tributaries to converge with the (a)(1) Locust Fork waterway, a Traditionally Navigable Waterway . The intermittent UT to Slab Creek (UT1) begins north of Tract C and flows south through the eastern half of Tract C before flowing through a non-jurisdictional culvert under Wagner Street. The stream continues flowing south until it empties into second, larger UT to Slab Creek (referred to as UT2). UT2 flows southwest until it meets Slab Creek, and Slab Creek meanders approximately 14.47 aerial (straight) miles southwest until it joins Locust Fork. Locust Fork continues southwest until it converges with Mulberry Fork, and the resulting confluence forms the headwaters of the Black Warrior River. Therefore, the intermittent UT to Slab Creek flows indirectly to an (a)(1) water in a typical year.