



**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): 8/25/2020
 ORM Number: SAM-2020-00057-ES
 Associated JDs: N/A
 Review Area Location¹: State/Territory: AL City: Mobile County/Parish/Borough: Mobile
 Center Coordinates of Review Area: Latitude 30.718196° Longitude -88.118237°

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
Stream 1	320	linear 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 a tributary of Three Mile Creek. The manmade feature was constructed in wetlands and can be observed in historic aerial imagery dating back to 1950 and as a blue-line stream in USGS Topographic Maps as early as 1953. On-site observations found the waterway to be approximately 10-feet wide with distinct bed and bank and Ordinary High Water Marks. The USGS National Hydrography Dataset, USGS topographic maps, and the USFWS National Wetlands Inventory designate Stream 1 as a Perennial feature. On-site

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	
			observations combined with desktop review of relevant data confirms Stream 1 is perennial, contributing surface water flow to a TNW in a typical year and is therefore jurisdictional.	

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	7.76	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Desktop review of elevation data for the subject property obtained from the NOAA's Data Access Viewer and the USGS National Map web application found Wetland 1 to be topographically connected to, and directly abutting, the adjacent tributary of Three Mile Creek. The subject parcel was found to be located entirely within the 100-year floodplain of the adjacent tributary as indicated by FEMA's National Flood Hazard Layer. Base Flood Elevation (BFE) within the vicinity of the parcel is 32-feet, while the wetland areas were determined to be within the 28.5-foot elevation contour, 3.5 feet below the BFE. On site observations and the desktop survey found no topographic features which would cause a physical disconnection between Wetland 1 to the abutting Three Mile Creek tributary. The wetland was observed to continue east, off site toward the stream. Review of USDA-NCSS SSURGO data found soils within Wetland 1 to consist of 85% Smithton (hydric), 5% Bibb (hydric), and 5% Daleville (hydric). The USGS National Hydrography Dataset, USGS topographic maps, and the USFWS National Wetlands Inventory indicate Wetland 1 to be contiguously connected to Stream 1. On-site observations combined with desktop review of the above and below mentioned resources confirms Wetland 1 to be jurisdictional.
Wetland 2	1.25	acre(s)	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	Desktop review of elevation data found Wetland 2 to be separated from Wetland 1 by a 1.5-foot elevation contour and separated from the adjacent tributary of Three Mile Creek to the north by an artificial barrier. Wetland 2 and the subject parcel is located entirely within the 100-year floodplain of Three Mile Creek, as indicated by FEMA's National Flood Hazard Layer. Base Flood Elevation (BFE) within the vicinity of the parcel is 32 feet, while the wetland areas were



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				<p>determined to be within the 28.5-foot elevation contour, 3.5 feet below the BFE. Review of the Alabama Department of Economics and Community Affairs – Office of Water Resources Flood Risk Map data found the subject property is located within an area designated as 10% Annual Flood Chance, with a 1% annual flood depth of 5.7-feet. Soil types within Wetland 2 are contiguous with those of Wetland 1, consisting of 85% Smithton (hydric), 5% Bibb (hydric), and 5% Daleville (hydric), and this is confirmed by the applicant’s delineation. The USGS National Hydrography Dataset, USGS topographic maps, and the USFWS National Wetlands Inventory indicate Wetland 2 to be contiguous with Wetland 1. On-site observations combined with desktop review of the above and below mentioned resources confirms Wetland 2 to be jurisdictional.</p>
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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: [JD Request Letter \(05/13/2019\)](#); [wetland survey map and data sheets \(04/03/2019\)](#)

This information is and is not sufficient for purposes of this AJD.

Rationale: Although the delineation map submitted by the agent indicates the on-site wetlands to be jurisdictional, the agent’s JD request letter asserted the wetlands to be isolated and non-jurisdictional. Based on desktop review and site inspection findings Wetland 1 was found to abut Stream 1, and thus jurisdictional. Wetland 2 was confirmed to be adjacent based on review of applicable data described above and below, as it is only separated by a barrier which allows for hydrologic connection to the adjacent an (a)(2) water in a typical year and is therefore jurisdictional. The wetland boundaries illustrated on the submitted delineation map represent an accurate depiction of the wetland boundary lines at the site.

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Select. Title\(s\) and/or date\(s\)](#).
- Corps site visit(s) conducted on: [July 16, 2020](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\)](#).
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

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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- USDA NRCS Soil Survey: [NCSS SSURGO Soilweb Google Earth layer \(SSURGO Export: 2020-05-29\)](#)
- USFWS NWI maps: [USFWS Wetlands Mapper \(08/10/2020\)](#)
- USGS topographic maps: [1943 Mobile, AL 1:31,680](#); [1953 Mobile, 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/WBD/NHD data/maps	The National Map Web Application ; StreamStats Web Application ; National Hydrography Dataset
USDA Sources	N/A.
Other NOAA data (specify)	Data Access Viewer (2014 Lidar: Mobile County, AL)
USACE Sources	N/A.
Other state/local data (specify)	Alabama Department of Economics and Community Affairs – Office of Water Resources Flood Risk Map
EPA sources (specify)	EPA WATERS GeoViewer web application
Other:	University of Alabama Air Photo Archive (Crichton 1943 and 1953)
FEMA	National Flood Hazard Layer (Firmette: 01097C0551L and 01097C0553L; eff. 06/05/2020)

B. Typical year assessment(s): Utilization of the USACE Antecedent Precipitation Tool for the subject study area found that the July 16, 2020 site visit was performed during “Normal Conditions” but with a PDSI drought index of “mild drought” for July 2020. Despite the “mild drought” conditions, the stream exhibited moderate southeastern flow. Precipitation for the month of June was higher than the 30-year normal range, with mid-July being within the lowest range of the 30-year normal.

C. Additional comments to support AJD: Based on data obtained from the USGS StreamStats web application, Stream 1 has a contributing drainage area of 2.716 square miles with urban development comprising 43.3% of the drainage area. The USFWS National Wetlands Inventory Mapper identifies Stream 1 as a R2UBH (Riverine Lower Perennial with Unconsolidated Bottoms Permanently Flooded). A majority of the parcel is identified as PFO1/3A (Palustrine Forested Broad-Leaved Deciduous/Broad-Leaved Evergreen Temporarily Flooded, while a portion of Wetland 2 is identified as PEM1Ad and PEM1CD, which are both Palustrine Emergent Wetlands. Stream 1 is further identified by the USGS National Hydrography Dataset Hydrographic Category as perennial.

The subject parcel is zoned AE by the FEMA National Flood Hazard Layer with a 1% Annual Chance Flood Hazard with Stream 1 connecting to Three Mile Creek which is a designated Regulatory Floodway Flood Hazard Zone. As described above Base Flood Elevation (BFE) within the vicinity of the parcel is 32 feet, while the wetland areas were determined to be within the 28.5-foot elevation contour, 3.5 feet below the BFE. Review of the Alabama Department of Economics and Community Affairs – Office of Water Resources Flood Risk Map data found the subject property is located within an area designated as 10% Annual Flood Chance, with a 1% annual flood depth of 5.7 feet.

Elevation data obtained from the USGS - The National Map web application and NOAA Data Access Viewer clearly indicate elevations associated with the feature identified as Wetland 1 remain contiguously connected to the feature identified as Stream 1. By overlaying 1.5 foot Lidar elevation contours over the agent submitted delineation map, Wetland 1 was found to closely follow the 28.5 foot contour, which can



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be observed to continue off-site to where it abuts with Stream 1.