



**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): 1/28/2021

ORM Number: SAM-2020-00923-JDC

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 34.142118 Longitude -86.854696

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

§ 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): <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.

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.

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.

<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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**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
Wetland 1	0.48	acre(s)	(b)(1) Non-adjacent wetland.	Based on a review of available desktop resources and information provided by the consultant, Wetland 1 does not abut an (a)(1) – (a)(3) water, nor is it inundated by flooding from an (a)(1) – (a)(3) water in a typical year.
Stream 1	836	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The ephemeral Stream 1 feature only flows in response to rainfall events. Based on information provided by the agent, no hydrophytic vegetation or hydric soils exist within the channel and no continuous surface water flow other than in direct response to rainfall events was observed in or surrounding the stream during both the wet season and the dry season.
Stream 2	512	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The ephemeral Stream 2 feature only flows in response to rainfall events. Based on information provided by the agent, no hydrophytic vegetation or hydric soils exist within the channel and no continuous surface water flow other than in direct response to rainfall events was observed in or surrounding the stream during both the wet season and the dry season.

**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: [Environmental Assessment including Wetland Delineation report/data forms submitted by Barry A. Vittor & Associates, Inc. dated September 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: Color digital aerial photographs \(date unspecified\) and color digital site photographs dated 21 July 2020 provided by the consultant.](#)

Corps site visit(s) conducted on: [Date\(s\).](#)

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 12, May 28, 2020, Cullman County, Alabama, downloaded from <http://websoilsurvey.nrcs.usda.gov>.](#)

USFWS NWI maps: [NWI map downloaded from <https://www.fws.gov/wetlands/Data/mapper.html>](#)

<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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USGS topographic maps: [Cullman, 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>	N/A.
<a href="#">NOAA Sources</a>	N/A.
<a href="#">USACE Sources</a>	N/A.
<a href="#">State/Local/Tribal Sources</a>	N/A.
<a href="#">EPA sources (specify)</a>	<a href="#">EPA WATERS GeoViewer; https://www.epa.gov/waterdata/waters-geoviewer</a>

**B. Typical year assessment(s):** The consultant, Barry A. Vittor & Associates, Inc., visited the subject 38.3-acre property twice during the wet season (November 2019 and March 2020) and once during the dry season (July 2020). Upon evaluation using the APT tool it was determined that the November 6, 2019, site visit conditions were under a normal wetness conditions, and the March 11 and July 21, 2020, site visit conditions were under wetter than normal wetness conditions. Based on the collective APT information along with desktop mapping resources (NWI, USGS topographic mapping, USGS NHD mapping) indicating the tributary carries ephemeral flow, in addition to field observations by Barry A. Vittor & Associates, Inc. in which no surface flow was observed in the channels on March 11 and July 21, 2020 although the area was experiencing a wetter than normal precipitation/wetness conditions during those times, the Mobile District has determined an ephemeral flow regime appears to be the normal flow regime of the two tributaries.

**C. Additional comments to support AJD:** [N/A](#)