



**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): 12/14/2020

ORM Number: SAM-2020-00600-JCC

Associated JDs: N/A

Review Area Location¹: State/Territory: AL City: Fairhope County/Parish/Borough: Baldwin County

Center Coordinates of Review Area: Latitude 30.538612° Longitude -87.803911°

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
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

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
W2	0.6	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	The subject wetland is a manmade pond. It is separated from any jurisdictional features by a manmade berm and does not include any culverts connecting it to jurisdictional waters. The wetland is entirely outside of FEMA Flood Hazard areas. Considering the lack of connection between the subject resource and the nearest (a)(1)-(a)(3) water, the water is non-jurisdictional.
W3	0.6	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	The subject wetland is a manmade pond. It is separated from any jurisdictional features by a manmade berm and does not include any culverts connecting it to jurisdictional waters. The wetland is entirely outside of FEMA Flood Hazard areas. Considering the lack of connection between the subject resource and the nearest (a)(1)-(a)(3) water, the water is non-jurisdictional.

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 at Fairhope Falls LLC JD Request \(6/01/2020\)](#)

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, and an analysis of historical impacts to the review area, along with an inspection of the site by Mobile District personnel on November 18, 2020, indicate the ponds labeled as W2 and W3 both exhibited no above-ground hydrologic connection to nearby jurisdictional waters.

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).

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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- Photographs: [Aerial: University of Alabama Air Photos Archive: 1952; Google Earth Pro \(2/1997 - 11/2019\)](#)
- Corps site visit(s) conducted on: [November 18, 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: [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 July 3, 2020, and submitted with the JD request by the agent](#)
- USGS topographic maps: [1940 Silverhill, AL 1:31680; 1941 Silverhill, AL 1:31680, 1942 Silverhill, AL 1:31680; 1953 Fairhope, AL 1:24000, 2011 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: 01003C0670M (eff. 04/19/2019)

B. Typical year assessment(s): [N/A](#)

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