



**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): 10/29/2020

ORM Number: SAM-2020-00605-ES

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: AL City: Gulf Shores County/Parish/Borough: Baldwin County

Center Coordinates of Review Area: Latitude 30.282245° Longitude -87.702401°

**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
E1	239 linear feet	RHA Tidal water is subject to the ebb and flow of the tide	The review area is a 7.4-acre waterfront property located on the Foley Land Cut (FLC) portion of the GIWW. The waterway is a tidally influenced manmade navigation channel constructed in the 1930's, providing a connection between Mobile Bay and Wolf Bay. The property includes 230 linear feet of estuarine shoreline.

**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
E1	239 linear feet	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	The review area is a 7.4-acre waterfront property located on the Foley Land Cut (FLC) portion of the GIWW. The waterway is a tidally influenced manmade navigation channel constructed in the 1930's, providing a connection between Mobile Bay and Wolf Bay. The property includes 230 linear feet of estuarine shoreline.

<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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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.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
W1	0.22	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	The subject feature is a topographically influenced wetland, being located within lower elevations than the surrounding area, where the geomorphic position supports wetland habitat. The wetland is located at the northwest corner of the property boundary, where it continues off-site and connects to an abutting ditch located just west of the property. The ditch, observed during a 09/03/2020 site visit, runs north-to-south from Oyster Bay Road to the GIWW. Desktop review of elevation data identified below confirmed W1 to be contiguously connected to the ditch. USGS topographic maps dated 1921 and historic aerial imagery indicate the review area consisted of wetlands prior to construction of the FLC/GIWW in the 1930's. Historic aerial imagery dated 1940 and 1949 indicates the placement of dredge spoil material within the subject parcel during the construction of the FLC portion of the GIWW. Orientation of the dredge spoil placement observed in the imagery is consistent with existing topographic contours. The ditch, connecting the wetland to the GIWW, can be observed in aerial imagery dated 1966. As defined by the NWPR, the term "tributary" includes a ditch that either relocates a tributary, is constructed in a tributary, or is constructed in an adjacent wetland as long as the ditch is perennial or intermittent and contributes surface water flow to a traditional navigable water or territorial sea in a typical year. Considering that W1 abuts the perennial ditch, which was constructed in a jurisdictional adjacent wetland, that receives and contributes surface flow to the abutting GIWW, it is considered jurisdictional.
N/A	N/A	N/A.	N/A.	N/A.

**D. Excluded Waters or Features**



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
W2	0.003 acre(s)	(b)(1) Non-adjacent wetland.	The subject wetland is a depressional feature topographically isolated from the GIWW.

**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 Bon Secour LLC JD Request \(6/15/2020\)](#)

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

Rationale: [The initial request did not include W1. Additionally, the request asserted that no jurisdictional wetlands were present within the review area. Following coordination with the agent, the delineation was revised to include W1. The boundaries in the revised delineation were found to be accurate.](#)

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

Photographs: [Aerial: University of Alabama Air Photos Archive: 1940, 1949, 1960, 1966, and 1974 Baldwin County Mosaic; Google Earth Pro \(11/2019\)](#)

Corps site visit(s) conducted on: [09/03/2020](#)

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 Map Web Application 10/20/20](#)

USGS topographic maps: [1921 Bon Secour, AL 1:24000; 1943 Foley, AL 1:62500; 1980 Gulf Shores, AL 1:24000](#)

**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="#">USGS The National Map Web Application: NHD, USGS 3D Elevation Program Hillshade stretched and auto contours</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="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A</a>
<a href="#">FEMA/FIRM maps</a>	<a href="#">Firmette PANEL: 01003C0937M; 01003C0939M (eff. 04/19/2019)</a>

**B. Typical year assessment(s):** [N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.](#)

**C. Additional comments to support AJD:** [N/A or provide additional discussion as appropriate.](#)

<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.