



**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): 11/5/2020  
 ORM Number: SAM-2020-00669-ES  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: AL City: Gulf Shores County/Parish/Borough: Baldwin  
 Center Coordinates of Review Area: Latitude 30.303017 Longitude -87.677725

**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.

**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.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**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
WLF	0.57	acre(s)	(b)(1) Non-adjacent wetland.	The subject wetland is a lacustrine fringe associated with a manmade pond that is not abutting, adjacent, or otherwise connected to, a paragraph (a)(1)-(a)(3) water.
Pond	1.1	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	<p>To be jurisdictional the impoundment must be an impoundment of a territorial sea or traditional navigable water, tributary, jurisdictional lake or pond, or an adjacent wetland, and must meet the conditions in paragraph (c)(6) of the final rule.</p> <p>The subject pond is located approximately 1.2 miles north of the Gulf Intracoastal Waterway (GIWW) and is an impoundment of non-adjacent grady ponds / wetland features and drainage ditches that would now be considered non-jurisdictional. Historic aerial imagery dated 1940 and 1949 indicate that a portion of the current pond feature previously existed as isolated Grady ponds / wetlands prior to excavation sometime in 1997. This is supported by USDA NRCS Soil Survey maps. Historic aerial imagery also indicate that the 1.5-mile network of ditches connecting these grady ponds/wetland features was excavated sometime prior to 1966, and these ditches provided a continuous surface connection from the features to the GIWW. However, these ditches were not excavated entirely from jurisdictional wetlands and were not a channelization of a previously existing tributary. In addition, review of FEMA's National Flood Hazard Layer indicates the entire review area is located outside of the floodplain and would not be inundated in a typical year.</p> <p>Considering the information above, it is determined that the pre-impoundment grady ponds / wetlands were not adjacent wetlands, and that the pre-impoundment drainage ditches would not now be considered to be tributaries prior to the excavation / impoundment of those features for construction of the current pond feature. Therefore, the current pond feature</p>

<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.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
			would not meet the criteria as defined by the NWPR and is not considered 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: [JD Request packet including: Wetland Delineation Atlantic and Gulf Coastal Plain Region Data Sheets complete 07/01/2020; Wetland boundary map with data point locator coordinates; USDA – NRCS Soil Map; USFWS NWI Map](#)

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: University of Alabama Air Photo Archive: 1940, 1949, 1955, 1960, 1966, 1974 Baldwin County Mosaic; Google Earth](#)
- 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: [SSURGO .kmz for Google Earth \(Export 05/29/2020\)](#)
- USFWS NWI maps: [USFWS NWI Map layer obtained from USGS The National Map Web Application 08/20/20](#)
- USGS topographic maps: [Gulf Shores, Ala. 1:24000 \(1980 and 2018\)](#)

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

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS/WBD/NHD data/maps</a>	<a href="#">USGS The National Map Web Application: NHD, NWI</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="#">PANEL 01003C0941M eff. 04/19/2019</a>

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

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