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): 12/28/2020
ORM Number: SAM-2020-00762-JDC
Associated JDs: N/A
Review Area Location[1]: State/Territory: Alabama City: Vestavia Hills County/Parish/Borough: Jefferson
Center Coordinates of Review Area: Latitude 33.453785 Longitude -86.738693

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.	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.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
S1 Reach 1	33	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Based on a field assessment, review of available desktop resources, and information provided by the consultant, the unnamed tributary (UT) to Little Shades Creek in the JD review area is a perennial stream that contributes surface water flow to an (a)(1) water in a typical year through one or more (a)(2)-(a)(4) waters. The UT to Little Shades Creek has been routed through two (2) sections of culverted piping that split the stream into five (5) reaches. Reach 1 is a 33 linear foot section of natural, perennial, open surface tributary channel.

[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.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
S1 Reach 3	164	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Based on a field assessment, review of available desktop resources, and information provided by the consultant, the unnamed tributary (UT) to Little Shades Creek in the JD review area is a perennial stream that contributes surface water flow to an (a)(1) water in a typical year through one or more (a)(2)-(a)(4) waters. The UT to Little Shades Creek has been routed through two (2) sections of culverted piping that split the stream into five (5) reaches. Reach 3 is a 164 linear foot section of natural, perennial, open surface tributary channel.
S1 Reach 5	201	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Based on a field assessment, review of available desktop resources, and information provided by the consultant, the unnamed tributary (UT) to Little Shades Creek in the JD review area is a perennial stream that contributes surface water flow to an (a)(1) water in a typical year through one or more (a)(2)-(a)(4) waters. The UT to Little Shades Creek has been routed through two (2) sections of culverted piping that split the stream into five (5) reaches. Reach 5 is a 201 linear foot section of natural, perennial, open surface tributary channel.

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
Wet A	0.02	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Based on a field assessment, review of available desktop resources, and information provided by the consultant, this 0.02-acre non-forested wetland abuts an unnamed tributary to Little Shades Creek within the project area. The UT to Little Shades Creek is a perennial tributary, (a)(2) water, that contributes surface water flow indirectly to an (a)(1) water in a typical year.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
S1 Reach 2	22	linear feet	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories.	Based on a field assessment, review of available desktop resources, and information provided by the consultant, the unnamed tributary (UT) to Little Shades Creek in the JD review area is a perennial stream that contributes surface water flow indirectly to an (a)(1) water in a typical year. The UT to Little Shades Creek has been routed through two (2) sections of culverted piping that split the stream into five (5) reaches. Reach 2 is a 22 linear foot culverted access road crossing. Underground/buried portions of a channel, including culverts, meet the (b)(1) waters exemption.
S1 Reach 4	7	linear feet	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories.	Based on a field assessment, review of available desktop resources, and information provided by the consultant, the unnamed tributary (UT) to Little Shades Creek in the JD review area is a perennial stream that contributes surface water flow indirectly to an (a)(1) water in a typical year. The UT to Little Shades Creek has been routed through two (2) sections of culverted piping that split the stream into five (5) reaches. Reach 4 is a culverted section of the perennial stream that flows beyond the project boundaries and re-enters the review area as the culvert terminates. Although Reach 4 measures 97 linear feet, only 7 linear feet of the reach is within the project review area. Most of the Reach 4 is outside of the project review area, but it functions as a connection maintaining downstream perennial flow from jurisdictional Reach 3 to jurisdictional Reach 5 of the tributary.

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: Request for Approved Jurisdictional Determination submitted by Specturm Environmental, Inc. dated July 10, 2020. Additional map submitted November 24, 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).

[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.

☒ Photographs: Aerial and Other: ESRI color digital aerial photographs and color digital site photographs provided by the consultant.
☒ Corps site visit(s) conducted on: October 23, 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: Web Soil Survey Map Version 13, May 28, 2020, Jefferson County, Alabama, downloaded from http://websoilsurvey.nrcs.usda.gov.
☒ USFWS NWI maps: NWI map downloaded from https://www.fws.gov/wetlands/Data/mapper.html
☒ USGS topographic maps: Cahaba Heights, 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
USGS Sources	The National Map Advanced Viewer – NHD dataset layer; https://viewer.nationalmap.gov/advanced-viewer/
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A
State/Local/Tribal Sources	N/A.
EPA sources (specify)	EPA WATERS GeoViewer; https://www.epa.gov/waterdata/waters-geoviewer

B. Typical year assessment(s): Based on Antecedent Precipitation Tool (APT) data output for the date of USACE field review (10/23/2020) during which apparent perennial stream flow was observed, the review area was experiencing normal precipitation conditions, which provides supporting evidence indicating the UT to Little Shades Creek likely contributes perennial flow to Little Shades Creek and downstream tributaries in a typical year.

C. Additional comments to support AJD: Based on USACE staff field review and review of available desktop resources including Web Soil Survey mapping, USGS topographic mapping, aerial photography, and current site-specific photos, the UT to Little Shades Creek within the JD review area is a perennial tributary that has been routed through two culverted segments. Each of the culverted sections is treated as an excluded, non-jurisdictional waters segment, however, they do not sever jurisdiction between upstream and downstream portions of the natural surface flow channel since the culverted segments convey and maintain perennial flow connectivity of the UT that contributes water flow to Little Shades Creek (perennial tributary) in a typical year, which in turn contributes flow to Cahaba River in a typical year.