



**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): 12/29/2020  
 ORM Number: SAM-2020-01047-JLB  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: AL City: Gardendale County/Parish/Borough: Jefferson  
 Center Coordinates of Review Area: Latitude 33.62523 Longitude -86.87207

**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
S2 Perennial	390.4	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
			Approximate perennial stream location 33.625325, -86.874421. Field observation information (narrative and photographs) provided by agent documents flow in S2 tributary although the area was experiencing drier than normal rainfall conditions (mild drought) at the time of field evaluation based on data from Antecedent Precipitation Tool.

<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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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.	

**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
S1 Ephemeral	1,169	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Approximate ephemeral stream location 33.626727, -86.873821. Consists of flow that concentrates in a small, shallow valley feature, flows only in response to rainfall events, no hydric soils within the confines of the channel. There is no evidence this feature contributes flow to an (a)(1) water in a typical year.
Wet A	0.02	acre(s)	(b)(1) Non-adjacent wetland.	Approximate wetland location 33.627661, -86.873599. Wetland located along an ephemeral tributary feature that is excluded from CWA jurisdiction and is entirely outside of the flood zone of downstream jurisdictional waters. Additionally, the wetland is physically isolated from waters of the U.S. No evidence this feature is inundated by flow or flooding from an (a)(1) – (a)(3) water in a typical year.

**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: [Wetland Delineation Report and maps submitted by Spectrum Environmental, LLC in JD request dated 9/22/2020](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\).](#)

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

Photographs: [Aerial and Other: Aerial photographs downloaded from Google Earth Pro dated 8/15/2020. Site specific photographs taken 9/20/2019, submitted in 9/22/2020 delineation verification request.](#)

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.](#)

<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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- USDA NRCS Soil Survey: <https://www.websoilsurvey.nrcs.usda.gov> Jefferson County maps dated 28 May 2020.
- USFWS NWI maps: [NWI map downloaded from https://www.fws.gov/wetlands/Data/mapper.html](https://www.fws.gov/wetlands/Data/mapper.html)
- USGS topographic maps: [Gardendale, AL 1:24,000 7.5 Minute quadrangle edited from aerial photos 1979](#)

**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>	N/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="#">FEMA/FIRM maps</a>	FEMA FIRMette from Map #'s 01073C0215H,01073C0376H, and 01073C0357H effective 3/21/2019 downloaded from <a href="https://hazards-fema.maps.arcgis.com/apps/webappviewer/index.html">https://hazards-fema.maps.arcgis.com/apps/webappviewer/index.html</a>

**B. Typical year assessment(s):** Based on Antecedent Precipitation Tool (APT) data output for the agent's (Spectrum) date of field evaluation (09/20/2019) the review area was experiencing drier than normal precipitation conditions; however, stream flow was observed in tributary S2 which supports the conclusion this UT to Fivemile Creek contributes perennial flow to downstream (a)(1) waters in a typical year.

**C. Additional comments to support AJD:** The S1 tributary appears to be an excluded, non-jurisdictional ephemeral stream with a very small width/depth natural channel in a small valley feature that does not support a floodplain, hydric soils, or hydrophytic vegetation within the channel, which are all factors that would suggest greater than ephemeral flow if they were present. Historic mapping does indicate past strip mining in this area of the JD site with which the S1 ephemeral channel could be associated but there is no clear evidence of S1 being a man-made channel feature. The Wet A wetland feature consists of a small pocket of marginal wetland habitat adjacent to the excluded, non-jurisdictional ephemeral S1 channel and is too geographically distant from the jurisdictional S2 perennial tributary to receive flow or inundation from this waterway; therefore Wet A is an excluded, non-adjacent wetland. The perennial UT to Fivemile Creek (tributary S2) contributes flow to Fivemile Creek (perennial tributary) in a typical year, which in turn contributes flow to Locust Fork (an (a)(1) Section 10 listed traditional navigable water) in a typical year.