



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): 27-APR-2021

ORM Number: SAM-2021-00156-CMS

Associated JDs: N/A

Review Area Location<sup>1</sup>:

State/Territory: AL City: Hoover County/Parish/Borough: Jefferson County

Center Coordinates of Review Area: Latitude 33.349951 Longitude -86.853852

**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
S10	172 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	S10 provides confined surface water flow in a typical year to a perennial tributary of Scout Creek, an (a)(1) perennial tributary that flows into Scout Lake, an impoundment of Scout Creek, just beyond the property boundary. Scout Lake has a pipe under Brocks Gap Parkway that provides surface water flow in a typical year to Lake Trace, an impoundment of Scout Creek. The Lake Trace outfall provides surface water flow into Scout Creek, which converges with Black Creek (perennial tributary) approximately 1 mile southwest of the subject site. Black Creek then flows into Wilborn Lake, and impoundment of Black Creek. The Wilborn

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<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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			Lake outfall provides flow in a typical year into Black Creek, which flows for approximately 1700 feet before its confluence with the Cahaba River, an a(1) water.
S11	141 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	S11 provides confined surface water flow in a typical year to a perennial tributary of Scout Creek, an (a)(1) perennial tributary that flows into Scout Lake, an impoundment of Scout Creek, just beyond the property boundary. Scout Lake has a pipe under Brocks Gap Parkway that provides surface water flow in a typical year to Lake Trace, an impoundment of Scout Creek. The Lake Trace outfall provides surface water flow into Scout Creek, which converges with Black Creek (perennial tributary) approximately 1 mile southwest of the subject site. Black Creek then flows into Wilborn Lake, and impoundment of Black Creek. The Wilborn Lake outfall provides flow in a typical year into Black Creek, which flows for approximately 1700 feet before its confluence with the Cahaba River, an a(1) water.
S12	18 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	S12 provides confined surface water flow in a typical year to a perennial tributary of Scout Creek, an (a)(1) perennial tributary that flows into Scout Lake, an impoundment of Scout Creek, just beyond the property boundary. Scout Lake has a pipe under Brocks Gap Parkway that provides surface water flow in a typical year to Lake Trace, an impoundment of Scout Creek. The Lake Trace outfall provides surface water flow into Scout Creek, which converges with Black Creek (perennial tributary) approximately 1 mile southwest of the subject site. Black Creek then flows into Wilborn Lake, and impoundment of Black Creek. The Wilborn Lake outfall provides flow in a typical year into Black Creek, which flows for approximately 1700 feet before its confluence with the Cahaba River, an a(1) water.
S18	72 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	S18 provides confined surface water flow in a typical year to an intermittent tributary, which then converges with a perennial tributary of Scout Creek, an (a)(1) perennial tributary that flows into Scout Lake, an impoundment of Scout Creek, just beyond the property boundary. Scout Lake has a pipe under Brocks Gap Parkway that provides surface water flow in a typical year to Lake Trace, an impoundment of Scout Creek. The Lake Trace outfall provides surface water flow into Scout Creek, which converges with Black Creek (perennial tributary) approximately 1 mile southwest of the subject site. Black Creek then flows into Wilborn Lake, and impoundment of Black Creek. The Wilborn Lake outfall provides flow in a typical year into Black Creek, which flows for approximately 1700 feet before its confluence with the Cahaba River, an a(1) water.
S19R2	279 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	S19R2 provides confined surface water flow in a typical year directly to Scout Creek, an (a)(1) perennial tributary that flows into Scout Lake, an impoundment of Scout Creek, just beyond the property boundary. Scout

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			Lake has a pipe under Brocks Gap Parkway that provides surface water flow in a typical year to Lake Trace, an impoundment of Scout Creek. The Lake Trace outfall provides surface water flow into Scout Creek, which converges with Black Creek (perennial tributary) approximately 1 mile southwest of the subject site. Black Creek then flows into Wilborn Lake, and impoundment of Black Creek. The Wilborn Lake outfall provides flow in a typical year into Black Creek, which flows for approximately 1700 feet before its confluence with the Cahaba River, an a(1) water.
S1B (Scout Creek)	2893 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Scout Creek, an (a)(1) perennial tributary the originates northeast of the subject site. It bisects the subject property in a southwesterly direction and then flows into Scout Lake, an impoundment of Scout Creek, just beyond the property boundary. Scout Lake has a pipe under Brocks Gap Parkway that provides surface water flow in a typical year to Lake Trace, an impoundment of Scout Creek. The Lake Trace outfall provides surface water flow into Scout Creek, which converges with Black Creek (perennial tributary) approximately 1 mile southwest of the subject site. Black Creek then flows into Wilborn Lake, and impoundment of Black Creek. The Wilborn Lake outfall provides flow in a typical year into Black Creek, which flows for approximately 1700 feet before its confluence with the Cahaba River, an a(1) water.
S4	833 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	S4 provides confined surface water flow in a typical year directly to Scout Creek, an (a)(1) perennial tributary that flows into Scout Lake, an impoundment of Scout Creek, just beyond the property boundary. Scout Lake has a pipe under Brocks Gap Parkway that provides surface water flow in a typical year to Lake Trace, an impoundment of Scout Creek. The Lake Trace outfall provides surface water flow into Scout Creek, which converges with Black Creek (perennial tributary) approximately 1 mile southwest of the subject site. Black Creek then flows into Wilborn Lake, and impoundment of Black Creek. The Wilborn Lake outfall provides flow in a typical year into Black Creek, which flows for approximately 1700 feet before its confluence with the Cahaba River, an a(1) water.
S5	96 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	S5 provides confined surface water flow in a typical year to a perennial tributary of Scout Creek, an (a)(1) perennial tributary that flows into Scout Lake, an impoundment of Scout Creek, just beyond the property boundary. Scout Lake has a pipe under Brocks Gap Parkway that provides surface water flow in a typical year to Lake Trace, an impoundment of Scout Creek. The Lake Trace outfall provides surface water flow into Scout Creek, which converges with Black Creek (perennial tributary) approximately 1 mile southwest of the subject site. Black Creek then flows into Wilborn

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			Lake, and impoundment of Black Creek. The Wilborn Lake outfall provides flow in a typical year into Black Creek, which flows for approximately 1700 feet before its confluence with the Cahaba River, an a(1) water.
S6	955 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	S4 provides confined surface water flow in a typical year directly to Scout Creek, an (a)(1) perennial tributary that flows into Scout Lake, an impoundment of Scout Creek, just beyond the property boundary. Scout Lake has a pipe under Brocks Gap Parkway that provides surface water flow in a typical year to Lake Trace, an impoundment of Scout Creek. The Lake Trace outfall provides surface water flow into Scout Creek, which converges with Black Creek (perennial tributary) approximately 1 mile southwest of the subject site. Black Creek then flows into Wilborn Lake, and impoundment of Black Creek. The Wilborn Lake outfall provides flow in a typical year into Black Creek, which flows for approximately 1700 feet before its confluence with the Cahaba River, an a(1) water.
S7	524 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	S12 provides confined surface water flow in a typical year to a perennial tributary of Scout Creek (S6), an (a)(1) perennial tributary that flows into Scout Lake, an impoundment of Scout Creek, just beyond the property boundary. Scout Lake has a pipe under Brocks Gap Parkway that provides surface water flow in a typical year to Lake Trace, an impoundment of Scout Creek. The Lake Trace outfall provides surface water flow into Scout Creek, which converges with Black Creek (perennial tributary) approximately 1 mile southwest of the subject site. Black Creek then flows into Wilborn Lake, and impoundment of Black Creek. The Wilborn Lake outfall provides flow in a typical year into Black Creek, which flows for approximately 1700 feet before its confluence with the Cahaba River, an a(1) water.
S9R2	210 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	S9R2 provides confined surface water flow in a typical year directly to Scout Creek, an (a)(1) perennial tributary that flows into Scout Lake, an impoundment of Scout Creek, just beyond the property boundary. Scout Lake has a pipe under Brocks Gap Parkway that provides surface water flow in a typical year to Lake Trace, an impoundment of Scout Creek. The Lake Trace outfall provides surface water flow into Scout Creek, which converges with Black Creek (perennial tributary) approximately 1 mile southwest of the subject site. Black Creek then flows into Wilborn Lake, and impoundment of Black Creek. The Wilborn Lake outfall provides flow in a typical year into Black Creek, which flows for approximately 1700 feet before its confluence with the Cahaba River, an a(1) water.

**Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):**

<b>(a)(3) Name</b>	<b>(a)(3) Size</b>	<b>(a)(3) Criteria</b>	<b>Rationale for (a)(3) Determination</b>
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N/A	N/A	N/A	N/A
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Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wet A	0.26 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature	Wet A is separated from S1B (Scout Creek), an (a)(2) tributary, by a natural berm between the tributary and the wetland in the northern portion of the wetland. Additionally, Wet A is inundated by flooding from Scout Creek, an (a)(2) water in a typical year. See III C below for additional information.
Wet B	0.008 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wet B directly abuts S12, an (a)(2) intermittent tributary.
Wet C	0.06 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wet C directly abuts S19R2, an (a)(2) intermittent tributary.

**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
S13	199 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	S13 was dry during each site visit (see APT discussion for typical year discussion), the bed and banks were discontinuous, there was a lack of in-channel structures, and a lack of hydric soil indicators in sample taken from the bank.
S14	325 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	S14 was dry during each site visit, the bed and banks were discontinuous, there was a lack of in-channel structures, and a lack of hydric soil indicators in sample taken from the bank.
S15	154 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	S15 was dry during each site visit, the bed and banks were discontinuous, there was a lack of in-channel structures, and a lack of hydric soil indicators in sample taken from the bank.
S16	133 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	S16 was dry during each site visit, the bed and banks were discontinuous, there was a lack of in-channel structures, and a lack of hydric soil indicators in sample taken from the bank.
S17	92 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	S17 was dry during each site visit, the bed and banks were discontinuous, there was a lack of in-channel structures, and a lack of hydric soil indicators in sample taken from the bank.
S19R1	162 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	S19R1 was dry during each site visit, the bed and banks were discontinuous, there was a lack of in-channel structures, and a lack of hydric soil indicators in sample taken from the bank.
S8	297 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	S8 was dry during each site visit, the bed and banks were discontinuous, there was a lack of in-channel structures, and a lack of hydric soil indicators in sample taken from the bank.
S9R1	33 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	S9R1 was dry during each site visit, the bed and banks were discontinuous, there was a lack of in-channel structures, and a lack of hydric soil indicators in sample taken from the bank.

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			taken from the bank.
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**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: *Information in Spectrum Environmental's letter dated February 2, 2021 and e-mail dated 4/21/2021; Maps: site location, site topo, site aerial, NWI map, soil survey map, delineation maps; wetland data sheets*

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: *agent's site photos 11/4/2020, aerial 8/15/2019*

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: *USDA websoil survey*  
*https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm*

USFWS NWI maps: *USFWS NWI map.*

USGS topographic maps: *Helena Quad*

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

Data Source (select)	Name and/or date and other relevant information
USGS Sources	StreamStats: <a href="http://streamstats.usgs.gov">streamstats.usgs.gov</a>
USDA Sources	N/A.
NOAA Sources	NOAA Climate Data Online: <a href="https://www.ncdc.noaa.gov/cdo-web/">https://www.ncdc.noaa.gov/cdo-web/</a>
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	EPA My Waters Google Earth Layer: <a href="https://www.epa.gov/waterdata/viewing-waters-data-using-google-earth">https://www.epa.gov/waterdata/viewing-waters-data-using-google-earth</a>

**B. Typical year assessment(s):** The (a)(2) tributaries identified above show signs of consistent hydrology and flow. Field indicators include flow or pools during each site visit, continuous bed and bank structure, scour marks, erosion, hydric soil indicators in sample taken from bank, absence of vegetation, sinuosity, and sediment sorting. The APT for November 4, 2020, the date of agent's delineation, shows it was the wet season with normal conditions (i.e. not wetter than normal or drier than normal). According to photographs and information provided by the agent, the (a)(2) tributaries either had flow or the other indicators named above on November 4, indicating the hydrology is not only in response to rainfall events. The APT for April 20, 2021, the date of the USACE site visit, indicates it is the wet season and conditions are wetter than normal.

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- C. Additional comments to support AJD:** The APT for April 20, 2021, which establishes it is the wet season and conditions are wetter than normal, helps establish/confirm the ephemeral flow regime for S13,14,15,16,17,19R1,8, and 9R1 because all of those stream channels were dry during the site visit. The area had received 3.69 inches of rainfall from April 1 to April 19, 2021, with just trace amounts of rainfall on April 16 and 17 and no rainfall on April 18 and 19.

The southern portion of Wet A receives inundation by flooding from Scout Creek. I observed sediment deposition in that part of the wetland several inches deep, which indicates deposition has occurred multiple times over the years and not due to a single event. The sediment was a silty sandy material and was not the parent material in the wetland. This is not the only rationale for the (a)(4) determination. The wetland is also separated from Scout Creek by a natural berm in the northern part of the wetland. For these reasons, Wet A is adjacent based on paragraph (c)(1)(ii) and (c)(1)(iii).

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