



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

I. ADMINISTRATIVE INFORMATION CRG Acquisition, LLC - Project Repeat

Completion Date of Approved Jurisdictional Determination (AJD): 7/14/2021

ORM Number: SAM-2021-00459-JLB

Associated JDs: N/A

Review Area Location¹: State/Territory: Alabama City: Bessemer County/Parish/Borough: Jefferson

Center Coordinates of Review Area: Latitude 33.37354 Longitude -86.93532

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
- 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.

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.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
JD-1	76.20 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	JD-1 is a short ditched or channelized segment of tributary that carries base flow multiple continuous months out of the year and is an extension or channelized segment of a natural intermittent stream through natural, adjacent wetlands that were jurisdictional at the time this segment of ditching or channelization was conducted. In a typical year water from this intermittent feature flows through an intermittent (a)(2) water to the perennial (a)(2) water Little Shades Creek, which flows to (a)(1) water Cahaba River.

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.



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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
1-I	313.20	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Based on field assessment, review of available desktop resources, and information provided by the consultant, stream 1-I is an unnamed tributary (UT) to Little Shades Creek that exhibits base flow multiple continuous months out of the year. Intermittent stream 1-I contributes surface water flow to an (a)(1) water [Cahaba River] in a typical year through one or more (a)(2)-(a)(4) waters.
2-I	2141.31	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Based on field assessment, review of available desktop resources, and information provided by the consultant, stream 2-I is an unnamed tributary (UT) to Little Shades Creek that exhibits base flow multiple continuous months out of the year. Intermittent stream 2-I contributes surface water flow to an (a)(1) water [Cahaba River] in a typical year through one or more (a)(2)-(a)(4) waters.
3-P	542.64	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Based on review of available desktop resources, and documentation provided by the consultant, stream 3-P is an unnamed tributary (UT) to Little Shades Creek that flows continuously throughout the year. Perennial stream 3-P contributes surface water flow to an (a)(1) water [Cahaba River] in a typical year through one or more (a)(2)-(a)(4) waters.
4-P	1488.17	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Based on field assessment, review of available desktop resources, and documentation provided by the consultant, stream 4-P is an unnamed tributary (UT) to Little Shades Creek that flows continuously throughout the year. Perennial stream 4-P contributes surface water flow to an (a)(1) water [Cahaba River] in a typical year through one or more (a)(2)-(a)(4) waters.
5-P	2478.24	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Based on review of available desktop resources, and documentation provided by the consultant, stream 5-P is Little Shades Creek, which flows continuously throughout the year. Perennial stream 5-P contributes surface water flow to an (a)(1) water [Cahaba River] in a typical year through one or more (a)(2)-(a)(4) waters. Little Shades Creek flows to Shades Creek, which flows to Cahaba River.

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.



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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland A	38.680	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Based on field assessment, review of available desktop resources, and documentation provided by the consultant, Wetland A is a contiguous expanse of irregularly shaped floodplain wetland that abuts Little Shades Creek, which runs roughly through the center of the wetland longitudinally. In a typical year substantial portions of this wetland are inundated by flooding from Little Shades Creek, which is a perennially flowing (a)(2) water. Multiple long narrow "fingers" of wetland extend off the larger floodplain wetland area into small hillslope valleys.
Wetland B	0.082	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Based on field assessment, review of available desktop resources, and documentation provided by the consultant, Wetland B is a small wetland feature that directly abuts perennial (a)(2) stream 4-P and is formed where the slope gradient flattens slightly.
Wetland D	0.910	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Based on field assessment, review of available desktop resources, and documentation provided by the consultant, Wetland D is a wetland feature that directly abuts and is located at the head of intermittent (a)(2) stream 2-I.
Wetland E	0.466	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Based on field assessment, review of available desktop resources, and documentation provided by the consultant, Wetland E is a wetland feature that directly abuts intermittent (a)(2) stream 2-I, is formed where the slope gradient flattens slightly, and based on debris raft lines and water stain lines on woody vegetation appears to receive periodic inundation from stream 2-I.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Ephemeral 6-E	149.82	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on field assessment, review of available desktop resources, and documentation provided by the consultant, Ephemeral stream feature 6-E exhibits weak bed and bank and no persistent long-term moisture, only flowing in response to rainfall events. The ephemeral feature also lacks hydric soils within its channel and has patches of non-hydric/upland vegetation rooted within the channel.

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.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Ephemeral 7-E	91.46	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on field assessment, review of available desktop resources, and documentation provided by the consultant, Ephemeral stream feature 7-E exhibits weak bed and bank and no persistent long-term moisture, only flowing in response to rainfall events. The ephemeral feature also lacks hydric soils within its channel and has patches of non-hydric/upland vegetation rooted within the channel.
Ephemeral 8-E	1231.45	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on field assessment, review of available desktop resources, and documentation provided by the consultant, Ephemeral stream feature 8-E exhibits no persistent long-term moisture, only flowing in response to rainfall events. This ephemeral feature exhibits observable evidence of periods of substantial volume flows of run-off from surrounding land areas but of such brief duration that the channel and immediately adjacent land lack hydric soils. Flow evidence consists of rafts of trash and vegetative debris in portions of the 8-E channel and across portions of the adjacent land.
Ephemeral 9-E	155.33	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on review of available desktop resources and documentation provided by the consultant, the Ephemeral stream feature 9-E consists of only a short segment of observable channel that does not connect to any other stream features and exhibits no persistent long-term moisture as evidenced by a lack of hydric soils within the channel below OHWM. This channel only forms briefly and flows in response to rainfall events and is otherwise surrounded by dry land.
Wetland C	0.112	acre(s)	(b)(1) Non-adjacent wetland.	Based on field assessment and review of available desktop resources, Wetland C is a small non-adjacent wetland feature that exhibits no evidence of abutting, contributing flow to, or being inundated by flooding from an (a)(1), (a)(2), or (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: [Maps and delineation report submitted by Corblu Ecology Group, LLC received 15 April 2021 with PCN request and revised maps and delineation information submitted 8 June 2021 and 9 July 2021 to revise JD request pursuant to 3 June 2021 site visit with USACE.](#)



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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 and Other: Aerials and site-specific photos submitted in delineation report submitted by Corblu in April 2021 and revised JD request dated 9 July 2021. Specific date of the aerials is unknown. Date of the site-specific photos is not specified.
- Corps site visit(s) conducted on: 3 June 2021
- 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: Jefferson County, Alabama soil survey mapping provided by Corblu dated February 2021 derived from soil mapping available from <https://websoilsurvey.nrcs.usda.gov/app/>
- USFWS NWI maps: NWI mapping provided by Corblu dated February 2021 derived from habitat mapping available from www.fws.gov/wetlands/Data.mapper.html
- USGS topographic maps: Greenwood, AL 1:24,000

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
FEMA/FIRM maps	FEMA National Flood Hazard Layer FIRMette downloaded 13 July 2021 from https://www.arcgis.com/apps/webappviewer/index.html composed of portions of FIRM map Nos.01073C0539G effective 9/29/2006, 01073C0543H effective 9/3/2010, 01073C0677G effective 9/29/2006, and 01073C0681H effective 9/3/2010

B. Typical year assessment(s): The Antecedent Precipitation Tool (APT) displays that although observed during the typical dry season, the JD review area was experiencing wetter than normal conditions at the time of the early June 2020 delineation by Corblu. This combination of conditions resulted in observed water flows on the site being normal or typical for the site. The APT data for the 3 June 2020 USACE site visit indicates the geographic area was experiencing similar but slightly drier conditions than existed during the June 2020 delineation timeframe; therefore, observed conditions during the site visit should have been exhibiting near typical flow conditions for the time of year. This combination of APT data and field observations provides more confidence in the likely long-term accuracy of the assessed flow regimes of the tributaries on-site.

C. Additional comments to support AJD: Excluded Wetland C lies adjacent to a drainage culvert beneath Morgan Road that appears to extend beneath an existing commercial warehouse facility across the road, but no historic mapping or photographic evidence could be located documenting that a jurisdictional tributary had existed at this specific location. Also, no documented evidence could be located demonstrating Wetland C contributes flow to any downstream waterway through the culvert in a typical year, and no evidence of water flow from Wetland C through the culvert has been observed by USACE staff during a 3 June 2021 site visit nor multiple site visits by Corblu staff. For these reasons Wetland C has been determined to be excluded from Clean Water Act jurisdiction.