



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): 17-SEP-2020

ORM Number: SAJ-2006-04268

Associated JDs: N/A

Review Area Location<sup>1</sup>: State: FL City: Elkton County: Flagler County

Center Coordinates of Review Area: Latitude 29.617887 Longitude -81.28472

**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
Hulett Branch	11945 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Hulett Branch flows north into Pellicer Creek, an (a)(1) water. The Corps used National Wetlands Inventory Map, Jacksonville District Navigable Waters List, and USGS Flow Chart, and determined Pellicer Creek is an (a)(1) water that is subject to the ebb and flow of the tide (Figures 6, and 8-14). According to the Wetland Delineation Map (Figure 15), Hulett Branch is a surface water and when correlated with the Antecedent Precipitation Tool (Figure 7), which indicates the delineation occurred during normal conditions, the Corps has determined that Pellicer Creek is at least an intermittent tributary. Furthermore, according to the National Hydrologic Dataset Map (Figure 5), Hulett

<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 independent 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.

<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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			Branch is a <i>stream/river</i> and the Topographic Map (Figure 1) has the tributary named. The Corps has determined that Hulett Branch contributes surface water at least intermittently to Pellicer Creek, an (a)(1) tidal water, during normal conditions; therefore, the tributary is a jurisdictional (a)(2) water.
SW-2	0.08 acres	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	SW-2 flows west into Hulett Branch, an (a)(2) water. Hulett Branch flows north into Pellicer Creek, an (a)(1) water. According to the Wetland Delineation Map (Figure 15), SW-2 is a surface water; and, when correlated with the Antecedent Precipitation Tool (Figure 7), which indicates the delineation occurred during normal conditions, the Corps has determined that SW-2 is at least an intermittent tributary. The Corps has determined that SW-2 Branch meets the definition of an (a)(2) tributary. SW-2 Branch contributes surface water at least intermittently to Hulett Creek, an (a)(2) water, during normal conditions; therefore, the tributary is a jurisdictional (a)(2) water.
SW-4	1.37 acres	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	SW-4 flows west into Hulett Branch, an (a)(2) water. Hulett Branch flows north into Pellicer Creek, an (a)(1) water. According to the Wetland Delineation Map (Figure 15), SW-4 is a surface water; and, when correlated with the Antecedent Precipitation Tool (Figure 7), which indicates the delineation occurred during normal conditions, the Corps has determined that SW-2 is at least an intermittent tributary. Furthermore, the according the National Hydrologic Dataset Map (Figure 5) SW-4 is a stream/river and the Topographic Map (Figure 1) indicates a stream in that location. The Corps has determined that SW-2 Branch meets the definition of an (a)(2) tributary. SW-2 Branch contributes surface water at least intermittently to Hulett Creek, an (a)(2) water, during normal conditions; therefore, the tributary is a jurisdictional (a)(2) water.
SW-1	0.01 acres	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	SW-1 flows west into and through W-18 and then into SW-2, an (a)(2) water. SW-2 flows west into Hulett Branch an (a)(2) water. Hulett Branch flows north into Pellicer Creek, an (a)(1) water. According to the Wetland Delineation Map (Figure 15), SW-1 is a surface water; and, when correlated with the Antecedent Precipitation Tool (Figure 7), which indicates the delineation occurred during normal conditions, the Corps has determined that SW-1 is at least an intermittent tributary. The Corps has determined that SW-1 Branch meets the definition of an (a)(2) tributary. SW-1 Branch contributes surface water at least intermittently to Hulett Creek, an (a)(2) water, during normal conditions; therefore, the tributary is a jurisdictional (a)(2) water.

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

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(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
W-11	95.98 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The Corps determined that W-11 satisfies the requirements of a (a)(4) jurisdictional adjacent wetland. W-11 directly touches Hulett Branch. The Corps has determined Hulett Branch is an (a)(2) water. According to 328.3(c)(1)(I), a wetland is adjacent for jurisdictional purposes when a wetland abuts an (a)(2) water. Therefore, the Corps has determined that W-11 is a (a)(4) water.
W-12	1.33 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The Corps determined that W-12 satisfies the requirements of a (a)(4) jurisdictional adjacent wetland. SW-1, an (a)(2) water, flows from W-12, which then flows into W-18, an (a)(4) water. SW-2, an (a)(2) water flows from W-18 and directly touches Hulett Branch. The Corps has determined Hulett Branch is an (a)(2) water. According to 328.3(c)(1)(I), a wetland is adjacent for jurisdictional purposes when a wetland abuts an (a)(2) water. Therefore, the Corps has determined that W-12 is a (a)(4) water.
W-18	1.76 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The Corps determined that W-18 satisfies the requirements of a (a)(4) jurisdictional adjacent wetland. SW-2, an (a)(2) water flows from W-18 and directly touches Hulett Branch. The Corps has determined Hulett Branch is an (a)(2) water. According to 328.3(c)(1)(I), a wetland is adjacent for jurisdictional purposes when a wetland abuts an (a)(2) water. Therefore, the Corps has determined that W-18 is a (a)(4) water.

**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
SW-6 SW-3 SW-7	0.1-acre 0.05-acre 1.3 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	SW-6 is an ephemeral upland cut ditch. The Corps analyzed the Wetland Delineation Map (Figure 15) and dataset (Figures 16-63) and determined that uplands are on both sides of the ditch. Furthermore, National Wetlands Inventory does not indicate wetlands at the site (Figure 6) and the National Hydrologic Dataset (Figure 5) does not indicate the presence of a <i>stream/river</i> . These surface waters do not satisfy the definition of an (a)(1) or (2) water. In addition, the surface waters would not satisfy the definition of an (a)(4) water. Therefore, the Corps has determined the waters are (b)(5) excluded waters.
W-1 W-10	3.59 acres 0.08-acre	(b)(1) Non-adjacent wetlands	The Corps determined that these wetlands would not satisfy any definition provided in (a)(1-4) for a

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W-14 W-15 W-17 W-20 W-21 W-22 W-23 W-24 W-25 W-26 W-27 W-28 W-29 W-3 W-30 W-31 W-32 W-33 W-34 W-35 W-36 W-37 W-38A W-38B W-38C W-4 W-40 W-41 W-42 W-5 W-7 W-6	1.7-acre 0.21-acre 0.98-acre 3.8 acres 1.07 acres 0.57-acre 0.43-acre 0.85-acre 0.88-acre 1.01 acres 0.48-acre 2.43 acres 0.55-acre 1.87 acres 0.22-acre 0.39-acre 0.13-acre 0.14-acre 0.54-acre 0.17-acre 1.42 acres 0.62-acre 0.34-acre 0.16-acre 2.04 acres 7.67 acres 0.11-acre 0.11-acre 0.1-acre 0.82-acre 0.17-acre 1.21 acres		jurisdictional wetland. Review of aerial photos and wetland delineation maps demonstrate that these wetlands are naturally separated from Hulett Branch via uplands with no barriers of any kind in between. There is no evidence that these wetlands are inundated by flood waters from Hulett Branch at any time. Thus, the Corps determined that none of these wetlands would satisfy the definition of a jurisdictional adjacent wetland stated in 328.3(a)(c)(1).
W-16 W-2 W-39 W-9	12.68 acres 0.13-acre 15.36 acres 18.19 acres	(b)(1) Non-adjacent wetland	The Corps determined that these wetlands would not satisfy any definition provided in (a)(1-4) for a jurisdictional wetland. Review of aerial photos and wetland delineation maps demonstrate that these wetlands are naturally separated from Hulett Branch via uplands with no barriers of any kind in between. There is no evidence that these wetlands are inundated by flood waters from Hulett Branch at any time. The Corps examined the National Wetlands Inventory Map (Figure 6) to view the extent of the wetland offsite and the National Hydrologic Dataset (Figure 5) and determined the wetland does not abut an (a)(1) or (2) water. Thus, the Corps determined that none of these wetlands would satisfy the definition of a jurisdictional adjacent wetland stated in 328.3(a)(c)(1).

**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.

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- Information submitted by, or on behalf of, the applicant/consultant: *Wetland Determination Forms 1 October 2019 (Figures 16-63), Wetland Delineation 30 June 2020 (Figure 15)*  
This information *is and is not* sufficient for purposes of this AJD.  
Rationale: *The applicant did not provide an APT analysis, Topographic Map, or Soils Map that were needed for analysis.*
- Previous Jurisdictional Determinations (AJDs or PJDs): *AJD, 15 June 2007*
- Antecedent Precipitation Tool: *Figure 7, 1 October 2019*
- USDA NRCS Soil Survey: *Hydric Soils Map, dated 10 July 2020 (Figures 2-4)*
- USFWS NWI maps: *Figure 6, dated 10 July 2020*
- USGS topographic maps: *Figure 5, dated 10 July 2020*

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

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Topographic Map (Google Earth), Stream Flow Data ( <a href="https://waterdata.usgs.gov/fl/nwis/current/?type=flow&amp;group_key=basin_cd">https://waterdata.usgs.gov/fl/nwis/current/?type=flow&amp;group_key=basin_cd</a> )
USDA Sources	Soil Web Survey ( <a href="https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx">https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx</a> )
NOAA Sources	National Hydrologic Dataset (Google Earth)
USACE Sources	APT, Jacksonville District Navigable Waters List
State/Local/Tribal Sources	N/A.
Other Sources	N/A

- B. Typical year assessment(s):** The tributaries were referenced as surface waters and the ephemeral ditches are linear features that drain only uplands according to the wetland delineation that occurred on 1 October 2019. The Palmer Drought Severity Index indicated the delineation occurred during a moderate drought. The Web-based Water-Budget Interactive Modeling Program indicated the delineation occurred during the wet season. The delineation did not occur prior to a large precipitation event that would have resulted in an increase of surface water features. Furthermore, the 30-day Rolling Total is approximately the same as the month prior; however, within the month the rolling total increased by 5 inches before descending to the original 6-inch mark. This was a result from the lack of precipitation events within the 30 days; however, the Antecedent Precipitation Tool indicates the delineation occurred during a normal climatic period. In consideration of a moderate drought occurring during the wet season, the trend of the 30-day rolling total, and the normal climatic conditions, the Corps has determined the flow assessment of the tributaries and ditches to be accurate.
- C. Additional comments to support AJD:** N/A

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