



**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): 4/28/2021

ORM Number: SWL 2021-00096

Associated JDs: N/A

Review Area Location¹: State/Territory: Arkansas City: Rogers County/Parish/Borough: Benton

Center Coordinates of Review Area: Latitude 36.268533 Longitude -94.198836

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. |

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 | |
| N/A. | N/A. | N/A. | N/A. | |

| 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. | |

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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D. Excluded Waters or Features

| Excluded waters ((b)(1) – (b)(12)): ⁴ | | | | |
|--|----------------|-------------|---|--|
| Exclusion Name | Exclusion Size | | Exclusion ⁵ | Rationale for Exclusion Determination |
| OW 1 | 483 | linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | Based on the analysis in Crafton Tull's identification and delineation report, evidence in aerial photographs of the area ranging from 2012 – 2020, this 483-foot-long section of stream is ephemeral exhibiting surface flow only in direct response to storm related precipitation events. |

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: [Can-Ark Residential Development Identification and Delineation Study dated 16 March 2021 by Crafton Tull.](#)

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: Site photos provided by consultant. Google Earth aerial imagery 2012 – 2020.](#)

☐ 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: [Web Soil Survey Benton County, accessed 1 April 2021.](#)

☒ USFWS NWI maps: [National Wetlands Inventory Mapper, accessed 1 April 2021.](#)

☒ USGS topographic maps: [Bentonville South, AR 24K, accessed 1 April 2021.](#)

Other data sources used to aid in this determination:

| Data Source (select) | Name and/or date and other relevant information |
|--|---|
| USGS Sources | National Map (NHD and LiDAR layers), accessed 1 April 2021. |
| USDA Sources | N/A. |
| NOAA Sources | N/A. |
| USACE Sources | Antecedent Precipitation Tool (APT), Version 1 |
| State/Local/Tribal Sources | N/A. |
| Other Sources | Google Earth aerial imagery 2012 – 2020, accessed 1 April 2021. |

B. Typical year assessment(s): [APT was accessed for the dates of the the consultants site visits 23 February 2021 and 10 March 2021; findings: wet season, normal conditions. APT was also accessed for dates of Google Earth imagery; findings: March 2012 wet season, normal conditions; March 2014 wet season drier than normal; May 2014 wet season, normal conditions; March 2016 wet season, normal](#)

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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conditions; February 2017 wet season, normal conditions; March 2018 wet season, normal conditions; June 2017 dry season, wetter than normal conditions; March 2020 wet season, wetter than normal.

- C. Additional comments to support AJD:** The USGS Bentonville South Quadrangle map shows an unnamed intermittent stream (OW 1, approximately 483 linear feet) flowing through the southern portion of the project area. The identification and delineation report, submitted by Crafton Tull, describes OW 1 as having a discontinuous OHWM throughout the project area, and in most locations consisted of a drainage swale vegetated with tall fescue. Additionally, it stated where the OHWM was present, it averaged 3 feet in width and 0.5 inches deep and there was no flow at the time of the field investigation.

Based on Crafton Tull's identification and delineation report, evidence in aerial photographs (March 2012 – March 2020) with no flow being detected in the stream channel, USACE has determined that this is an ephemeral stream that only exhibits surface flow in direct response to storm related precipitation events.