



**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): 9/3/2020

ORM Number: SWL-2007-00522-2

Associated JDs: SWL-2007-00522 Sept. 2007 JD (USACE-conducted delineation); SWL-2007-00522-1 Dec. 2016 (Applicant-provided delineation)

Review Area Location<sup>1</sup>: State/Territory: Arkansas City: North Little Rock/Maumelle

County/Parish/Borough: Pulaski

Center Coordinates of Review Area: Latitude 34.841426° Longitude -92.374555°

**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.	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.	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.	N/A.

<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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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.	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
Ephemeral Stream 1 (EPH-1)	1,070	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The 2007 and 2016 approved jurisdictional determinations determined that the EPH-1 stream was ephemeral (i.e., has flowing water only during, and for a short duration after, precipitation events in a typical year). No evidence contrary to the previous determinations were observed during the August 2020 field inspection. However, the stream had been rerouted by construction work.
Ephemeral Stream 2 (EPH-2)	320	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The 2007 and 2016 approved jurisdictional determinations determined that the EPH-2 stream was ephemeral (i.e., has flowing water only during, and for a short duration after, precipitation events in a typical year). During the August 2020 field inspection, USACE noted that EPH-2 had been entirely filled by construction fill and is no longer present.
Swale 1 (SW-1)	195	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The 2007 and 2016 approved jurisdictional determinations determined that the ephemeral feature SW-1 was a swale as it lacked a bed and bank and showed little hydrologic characteristics such as scouring or destruction of terrestrial vegetation within the swale. No evidence contrary to the previous determinations were observed during the August 2020 field inspection.
Swale 2 (SW-2)	300	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The 2007 and 2016 approved jurisdictional determinations determined that the ephemeral feature SW-2 was a swale. During the August 2020 field inspection, USACE noted that SW-2 had been entirely filled by construction fill and is no longer present.
Wetland A	Less than 0.17	acre(s)	(b)(1) Non-adjacent wetland.	The 2007 and 2016 approved jurisdictional determinations determined that Wetland A was a non-adjacent wetland (Wetland A and B were recorded as approximately 0.17 acres combined in size). During the August 2020 field inspection,

<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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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination	
			USACE noted that Wetland A had been entirely filled by construction fill and is no longer present.	
Wetland B	Less than 0.17	acre(s)	(b)(1) Non-adjacent wetland.	The 2007 and 2016 approved jurisdictional determinations determined that Wetland B was a non-adjacent wetland (Wetland A and B were recorded as approximately 0.17 acres combined in size). During the August 2020 field inspection, USACE noted that Wetland B had been entirely filled by construction fill and is no longer present.

### 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: [Delineation of Potential Waters of the United States, Lyrata Consulting, LLC \(12/19/16\)](#)

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: Site Photos in Delineation Report, Lyrata Consulting, LLC; Google Earth Imagery \(all images available in the historical imagery feature between 1994 and 2018\); Global Enhanced GEOINT Delivery Imagery \(all images available between 2017 and 2020 at Zoom Level 17\); HistoricAerials.com \(images from 1955, 1960, and 1970\)](#)

☒ Corps site visit(s) conducted on: [9/21/07, 11/3/16, and 8/22/20](#)

☒ Previous Jurisdictional Determinations (AJDs or PJDs): [SWL-2007-00522 Sept. 2007 JD; SWL-2007-00522-1 Dec. 2016](#)

☒ Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

☒ USDA NRCS Soil Survey: [NRCS Web Soil Survey 3.4.0 accessed online on 8/21/20](#)

☒ USFWS NWI maps: [USFWS National Wetland Inventory Map accessed online on 8/21/20](#)

☒ USGS topographic maps: [USGS 7.5 minute quadrangles: Pinnacle Mountain, AR \(1994\); North Little Rock, AR \(1996\)](#)

#### 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>	<a href="#">USGS The National Map – National Hydrography Dataset; USGS The National Map – 3DEP LiDAR data</a>
<a href="#">USDA Sources</a>	<a href="#">NRCS Web Soil Survey 3.4.0 – Map Unit Descriptions for Tiak fine sandy loam</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">USACE ArcMap data; CorpsMap ORM map layers</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">FEMA National Flood Hazard Layer Viewer</a>

**B. Typical year assessment(s):** [Dates for the delineation conducted by Lyrata Consulting, LLC \(August 4, 18, 19, 20, 22 and 27, 2016\) and USACE's field reviews \(September 21, 2007; November 3, 2016, August 22, 2020\) were entered into USACE's Antecedent Precipitation Tool to determine if, at the time of the field](#)



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investigations, precipitation conditions were typical, or within the normal precipitation range for the project vicinity over the preceding 30 years. According to the APT, precipitation conditions were normal (final Antecedent Condition Calculation of 13) when the September 2007 jurisdictional determination was made; normal and wetter than normal (final Antecedent Condition Calculation of 13 for 8/4 and 8/18; 15 for 8/19, 8/20, 8/22, and 8/27) when the August 2016 delineation was conducted; drier than normal (final Antecedent Condition Calculation of 13) when USACE conducted the field inspection on November 3, 2016; and normal (final Antecedent Condition Calculation of 13) when USACE conducted the field inspection on August 22, 2020.

- C. Additional comments to support AJD:** Aerial photographs indicate ground-disturbing construction within the project boundaries as early as January 2019. Enclosed photographs from the August 22, 2020 field inspection show construction well under way.

Based on Lyrata Consulting, LLC's delineation, observations from USACE's August 22, 2020 field inspection, evidence in maps and aerial photographs of the area, and spatial data from various other sources (see III. Supporting Information), USACE has determined that the streams and wetlands within the project property are not jurisdictional waters as defined in the NWPR.

This jurisdictional determination is specific to an approximately 22-acre property located in Pulaski County, Arkansas near the city of Maumelle but within the municipal jurisdiction of the city of North Little Rock. The property is on the south side of Counts Massie Road immediately south of the Maumelle Baseball Fields at 9510 Counts Massie Road. The area of the delineation is mapped on the Pinnacle Mountain, AR and North Little Rock, AR U.S. Geological Survey (USGS) 7.5 minute topographic quadrangles and the legal description is NE ¼ of section 3, T. 2 N., R. 13 W. Coordinates of the approximate property center are 34.841426°N, -92.374555°W. The property is located in the Lower Arkansas-Maumelle watershed ([HUC] 11110207), a watershed of approximately 1126.78 square miles. The review area contains or once contained 4 non-jurisdictional ephemeral streams and 2 non-jurisdictional wetlands. The entire property is located within a FEMA Flood Zone X (unshaded) indicating 500-year floodplain of minimal flood hazard.

PREPARED BY:

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