



**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): 8/6/2021

ORM Number: SWL-2021-00205

Associated JDs: N/A.

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

Center Coordinates of Review Area: Latitude 36.4000 Longitude -94.2980

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
Pond-2	0.07	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Man-made pond constructed in uplands. Pond is vegetated and was dry at the time of the Corps site visit.
Eph-01	1,843	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral channel that enters the northern portion of subject property and flows south exiting the southern boundary. Exhibits discontinuous reaches that support an OHWM. Channel was dry at time of site visit. Channel is not mapped on historic quadrangles; however, is mapped by NHD and contemporary topographic quadrangle (2017). Aerial photography (Google Earth, 1994-2020) does not indicate water/flow in channel based on multiple years of record.

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: [AJD Request Form and project boundary dated June 28, 2021.](#)

This information is **not** sufficient for purposes of this AJD.

Rationale: [Applicant did not provide detailed information, i.e., wetland delineation, regarding the subject property.](#)

Data sheets prepared by the Corps: [Wetland Determination Data Form: Eastern Mountain and Piedmont Region on August 4, 2021.](#)

Photographs: [Aerial and Other: Google Earth \(1994-2020\); Corps site visit field report \(August 4, 2021\).](#)

Corps site visit(s) conducted on: [August 4, 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: [Web Soil Survey \(accessed July 14, 2021\).](#)

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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- USFWS NWI maps: [Accessed via National Regulatory Viewer on July 13, 2021.](#)
- USGS topographic maps: [Hiwasse, Arkansas \(1973, 1982, and 2017\).](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS/WBD/NHD data/maps	The National Map (NHD, LiDAR)
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	Antecedent Precipitation Tool (APT), Version 1; National Regulatory Viewer (ORM layers, NHD, LiDAR)
State/Local/Tribal Sources	N/A.
Other Sources	Historical Topos accessed via www.historicaerials.com

B. Typical year assessment(s): [APT was accessed for period corresponding to Corps site visit on August 4, 2021. Findings: dry season, wetter than normal conditions.](#)

C. Additional comments to support AJD: [A Corps site visit was conducted on August 4, 2021. Overall, the approximately 58-acre subject property supports uplands \(gently to moderately sloping\); including improved pasture, early successional, and upland oak/hickory forest communities. Two features were observed; a man-made pond and an ephemeral channel. A man-made pond, Pond-02, was observed in the eastern portion of the subject property. This pond, constructed in uplands, was dry at the time of the site visit. This pond would not be regulated under the NWPR. An ephemeral channel enters the the north-central portion of the subject property and flows south/southwest, exiting in the southwestern portion of the property. This channel was dry at the time of the site visit, despite the site visit being conducted in wetter than normal conditions \(per the APT\). The channel supported reaches with an OHWM and reaches without an OHWM \(the channel was better defined near the southern boundary of the subject property\). The channel is not mapped by historic quadrangle Hiwasse, Arkansas. The channel, a \(b\)\(3\) water, would not be regulated under the NWPR.](#)

[In addition, a second pond is mapped on topographic quadrangle Hiwasse, AR and is evident on aerial photography. This pond, previously located in the western portion of the subject property, was filled at the time of the Corps site visit. This feature was man-made and constructed in uplands, representing a \(b\)\(8\) water that would not have been regulated under the NWPR.](#)