



**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): 12/4/2020

ORM Number: SWL-2020-00241

Associated JDs: N/A

Review Area Location¹: State/Territory: Arkansas City: Fort Smith County/Parish/Borough: Sebastian

Center Coordinates of Review Area: Latitude 35.29860 Longitude -94.39232

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
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
Unnamed tributary of Mill Creek	1,822	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	A field investigation of the site occurred on May 7, 8 and 9, 2019, by the project consultant. The water has an ephemeral flow and is an excluded water consistent with (b)(1) - (b)(12) criteria. Photographs of the water were included within the project submittal. Coordinates 35.29860; -94.39232
Palustrine emergent wetland adjacent to an unnamed tributary of Mill Creek (W-1 and W-2)	19.53	acre(s)	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories.	A field investigation of the site occurred on May 7, 8 and 9, 2019, by the project consultant. The wetland is not identified as a water feature in (a)(1) - (a)(4) and does not meet the other (b)(1) subcategories. The palustrine emergent wetland appears to abut and is separated by an ephemeral unnamed tributary of Mill Creek. Wetland Determination Data Sheets were submitted by the consultant and have been reviewed by USACE project manager. Photographs of the wetland were included within the project submittal. Coordinates 35.29860; -94.39232

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: [Waters of the United States Preliminary Jurisdictional Evaluation & Wetland Delineation, Highway 71 and Brooken Hill Drive, City of Fort Smith, Sebastian County, Arkansas, dated May 2019.](#)

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: Figure A-5, Aerial Map; Figure B-1, Photo Location Map, Photos 1 - 2, 4 - 7, 9 - 13, dated 5/7/19, Photos 3 and 8, dated 9/19/18](#)

Corps site visit(s) conducted on: [Date\(s\).](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)

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

USDA NRCS Soil Survey: [Figure A-3, Soil Survey Map, Proposed Assisted Living, Fort Smith, Arkansas](#)

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: [Figure A-4, National Wetlands Inventory, Proposed Assisted Living, Fort Smith, Arkansas](#)
- USGS topographic maps: [Figure A-2 USGS Topographic Map \(1:24K – South Fort Smith\); Proposed Assisted Living, Fort Smith, Arkansas](#)

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.
Other Sources	N/A.

B. Typical year assessment(s): [N/A](#)

C. Additional comments to support AJD: [The site is an approximately 33-acre undeveloped parcel of land north of Brooken Hill Drive, east of Bryn Mawr Circle and west of Highway 71, on the south side of the City of Fort Smith, Arkansas. A single tree-lined drainage traverses the site from south to north. The consultant determined that the drainage is ephemeral in nature and has short duration flows. It appears to be a man-made channel created in uplands for the purpose of supporting stormwater runoff from surrounding lands. It has a very narrow riparian corridor that extends about 10 feet from the ordinary high water mark. The property also has two wetland features \(W-1 \(13.62 acres\) and W-2 \(5.91 acres\) The wetlands are separated by the ephemeral tributary through the property. The wetlands are identified as a wet prairie system which has been regularly hayed during dry periods, and it appears that the wetland has also been seeded with a pasture/forb mix at some previous period. The wetlands are considered associated with the non-jurisdictional ephemeral stream and therefore are also considered as non-jurisdictional.](#)