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): 2/26/2021
ORM Number: SWL 2019-00257
Associated JDs: N/A
Review Area Location[1]: State/Territory: Arkansas City: North Little Rock County/Parish/Borough: Pulaski
Center Coordinates of Review Area: Latitude 34.767489 N Longitude –92.292423 W

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.	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.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Int-01 Upper	640	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent channel (silt, vegetated substrate) supporting an ordinary high water mark (~20' width) that provides flow to Int-02 (RCB culvert)
Int-01 Lower	100	linear feet	(a)(2) Intermittent tributary contributes	Intermittent channel (silt, vegetated substrate) supporting an ordinary high water mark (~30' width) that coveys discharge from Int-02 (RCB culvert) to 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.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
			surface water flow directly or indirectly to an (a)(1) water in a typical year.	point leaving the review area and discharging within an UT to the Arkansas River.

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.

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)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Int-01 Culvert	~300	linear feet	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Intermittent, heavily channelized, urban stormwater control channel that conveys water through ~300 linear feet of twin RCB storm culverts prior to discharging into Int-03.
Wetland-01	~0.5	acre(s)	(b)(1) Non-adjacent wetland.	Non-adjacent emergent wetland that exhibits wetland vegetation, soils, and hydrological characteristics. Vegetation was nearly completely dominated by a mix of smartweeds (Polygonum spp.), but also contained cocklebur (Xanthium strumarium) and heliotrope (Heliotropu indicum). The wetland soils included typical ferric oxidation concentrations. Wetland is ~200 linear feet upslope from the designated 1% FEMA floodplain (Zone AE).

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.

[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.

☒ Information submitted by, or on behalf of, the applicant/consultant: Wetland Delineation Report of River Road Site, North Little Rock, Arkansas, October 4, 2017.
This information is and is not sufficient for purposes of this AJD.
Rationale: N/A

☐ Data sheets prepared by the Corps: Title(s) and/or date(s).

☒ Photographs: Aerial: Google Earth Imagery, December 1985 – June, 2020.

☐ Corps site visit(s) conducted on: N/A

☐ 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: SCS Soil Survey of Pulaski County, Arkansas, 1977; NRCS Web Soil Survey 3.2, 2018.

☒ USFWS NWI maps: USFWS National Wetlands Inventory – Wetlands Mapper

☒ USGS topographic maps: USGS Topographic Quandrangle Bentonville South-AR

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS The National Map – 3DEP
USDA Sources	NRCS Web Soil Survey
NOAA Sources	NOAA Daily Global Historical Climatology
USACE Sources	USACE ArcMAP
State/Local/Tribal Sources	N/A.
Other Sources	DHS-FEMA NFHL FIRMette; USACE 1987 manual and *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Eastern Mountains and Piedmont Region (Version 2.0)* (USACE Engineer Research and Development Center 2012).

B. Typical year assessment(s): The Natural State Stream field observation dates included September 29 and 30, 2017. The last recorded rainfall event occurred on September 12, 2017, with a total of 0.07 inches. The previous 7-day rainfall cumulative total was 0.0 inches. The USACE Antecedent Precipitation Tool (APT) indicated that at the time of field investigation, precipitation conditions included a total of 0.28 inches of rainfall observed over a 30-day period, which fell below the 30th percentile (1.8 inches) and the 70th percentile (3.8 inches) of the 30-year normal range, indicating a mild drought for the drought index. The 30 day observation period was preceded by wet conditions in July and August that fell slightly above the 70th percentile of the 30-year normal range. Overall, the reports indicated an antecendent precipitation verses the normal range based on NOAA's daily global historical climatology network with an overall rating of Normal Conditions classification.

C. Additional comments to support AJD: This jurisdictional determination is specific to an ~40-acre parcel of land within the vicinity of Vestal Park and the Arkansas River in North Little Rock, Pulaski County, Arkansas. The project site is northeast of River Road and Southeast of Paul Duke Drive. Legal description of the project area is part of Section 33, Township 2 North, Range 12 West. Center coordinates of the project area are 34.767489 N, -92.292423 W (NAD 83). The project area is located in the Arkansas-White-Red Region - Lower Arkansas - Fourche La Fave watershed (Hydrologic Unit Code [HUC] 11110207).

The site is divided by two, distinct topographic differences. The southern portion of the project area (~19-acres) is mainly level and mapped within a Federal Emergency Management Agency (FEMA) 1-percent

chance (100-year) floodplain and floodway for North Little Rock, Pulaski County, Arkansas. The southern 8 acres have been recently developed under Phase I, permitted under nationwide permit, SWL 2019-00251, into multi-resident apartment complexes. Approximately 296 linear feet of intermittent stream (Int-01 Lower) were previously impacted with the placement of reinforced concrete culvert during Phase I. The floodplain field consists of open areas of introduced pasture grasses, native and non-native forb species and thick, overgrown areas of early successional, shade-intolerant trees and shrubs.

The northern portion of the project area (~21 acres) is largely forested with mixed hardwoods and rises approximately 150 feet in elevation above the Federal Emergency Management Agency (FEMA) 1-percent chance (100-year) floodplain. A non-jurisdictional emergent wetland (Wetland-01) resides on the western half of the site near the toe of hill and in between the forested upland and overgrown field. The wetland is approximately 150 linear feet upslope of the Federal Emergency Management Agency (FEMA) 1-percent chance (100-year) floodplain. An unnamed intermittent stream (Int-01 Upper) is located along the eastern boundary and runs southerly for approximately 890 feet from the north-eastern boundary to the south-eastern boundary of site. The ridgetop of the site is open and dominated by pasture grasses, weedy native grasses and shrubs.

Along the Eastern border of the project area, a jurisdictional intermittent channel (INT-01 Upper) flows south approximately 640 linear feet prior to flowing through approximately 300 linear feet of non-jurisdictional storm-water culverts (INT-01 Culvert), then discharging into a jurisdictional intermittent channel (INT-01 Lower), flowing approximately 100 linear feet in an open channel before leaving the project review area. In addition, an approximately 0.5-acre, non-jurisdictional, non-adjacent, emergent wetland (Wetland-01) that exhibits wetland vegetation, soils, and hydrological characteristics is located on the western half of the project review area.