



**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): 2/23/2021

ORM Number: SWL-2019-00375

Associated JDs: SWL-2019-00375 January 13, 2020 (RAPANOS)

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

Center Coordinates of Review Area: Latitude 36.17194 Longitude -94.51710

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.	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.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination	
W-3	5.0	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3)	Wetland area that collects flow from the south via a swale feature. Wetland abuts a roadway and is connected directly to an intermittent channel by 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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Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size		(a)(4) Criteria
			water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.
			culvert. Intermittent channel flows north into Sager Creek, a tributary to the Illinois River.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
W-1	0.18	acre(s)	(b)(1) Non-adjacent wetland.	Wetland feature surrounded by uplands, lacking a connection to potentially regulated waters of the U.S.
W-2	5.18	acre(s)	(b)(1) Non-adjacent wetland.	Wetland receives hydrology from ephemeral channel (OW-1); OW-1 connects to roadside ditch constructed in uplands (lacks connection to (a)(1) through (a)(3) waters). Hydrology from wetland may be directed northward toward W-3 during storm events; however, pathway is a swale that lacks channel definition and would best be described as overland sheet flow.
P-1 (pond)	0.34	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 that abuts W-2, however, W-2 is a non-adjacent wetland, therefore pond lacks connection to (a)(1) through (a)(4) waters.
OW-1 (Ephemeral channel)	420	linear feet	(b)(3) Ephemeral feature, including an ephemeral	Ephemeral channel that directs drainage west towards W-2. Feature abuts roadside ditch constructed in uplands.

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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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
		stream, swale, gully, rill, or pool.	

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: [Crafton Tull Wetland Delineation dated December 6, 2019.](#)

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: Provided by Crafton Tull in delineation report; Google Earth \(1994-2020\), onsite Corps field visit \(November 2020\).](#)

☒ Corps site visit(s) conducted on: [November 4, 2020.](#)

☒ Previous Jurisdictional Determinations (AJDs or PJDs): [SWL-2019-00375 \(January 13, 2020\)](#)

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

☒ USDA NRCS Soil Survey: [Soil Survey of Benton County, Arkansas \(1977\); Web Soil Survey \(2021\)](#)

☒ USFWS NWI maps: [National Wetland Inventory Mapper](#)

☒ USGS topographic maps: [Siloam Springs, AR \(7.5-minute series\)](#)

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	11110103 Illinois River
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	Antecedent Precipitation Tool (ATP), Version 1.
LiDAR data/maps	The National Map (USGS)
FEMA/FIRM maps	Siloam Springs, Panel 05007C0370J

B. Typical year assessment(s): [ATP was accessed for period near the time of the Corps site visit \(November 2020\); findings: wet season, normal conditions.](#)

C. Additional comments to support AJD: [W-3 is a shrub-scrub wetland area that receives hydrology from a poorly defined swale that enters the area from the south. The wetland abuts \(via culvert\) an intermittent channel that flows north/northwest into Sager Creek and then Illinois River. Because this channel abuts an \(a\)\(2\) water, it would itself be regulated as an \(a\)\(4\) water. Wetlands W-1 and W-2 are emergent wetlands that lack connection to \(a\)\(1\) through \(a\)\(3\) waters and therefore would not be regulated as \(a\)\(4\) waters. Man-made pond \(P-1\) abuts W-2, however, since that features is a non-adjacent \(b\)\(1\) water, the pond \(likely originally excavated in uplands\) would also lack jurisdiction. Finally, OW-1 is a channelized feature \(likely a man-made ditch\), that in addition to being ephemeral in nature also lacks connection to \(a\)\(1\) through \(a\)\(4\) waters.](#)