



**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): 2/10/2021

ORM Number: SWL-2021-00046

Associated JDs: N/A.

Review Area Location<sup>1</sup>: State/Territory: Arkansas City: Fayetteville County/Parish/Borough: Washington

Center Coordinates of Review Area: Latitude 36.06579 Longitude -94.17745

**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.	

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
Hamestring Creek (Drain 1) (D1)	57	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Channel is mapped by NHD and topographic quadrangles, in addition was flowing at time of consultant wetland delineation and at time of Corps site visit. Aerial photography indicates water/flow in channel. Channel exhibits well-defined bed/bank and flow immediately west of Garland Avenue.
Intermittent Tributary to Hamestring	57	linear feet	(a)(2) Intermittent tributary contributes	Channel is not mapped by NHD or topographic quadrangles; however, it is evident on lidar and aerial photography immediately downstream of

<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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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Creek (Drain 2) (D2)			surface water flow directly or indirectly to an (a)(1) water in a typical year.	Garland Ave crossing. Based on site photographs by consultant the channel wasn't flowing at time of wetland delineation (dry season, normal conditions), but exhibited moderate flow at time of Corps site visit (wet season, drier than normal conditions).

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)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Ditch-01 (Drain 4) (D4)	1,180	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Roadside ditch constructed in uplands, located between Knapp Drive and Morrill Ave. on east side of Garland Avenue.
Ditch-02 (Drain 5) (D5)	2,500	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Roadside ditch constructed in uplands; located west of Garland Avenue, north of Hamestring Creek (between Knapp Drive and Poplar Street).
Ditch-03 (Drain 6) (D6)	700	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch	Roadside ditch constructed in uplands along west side of Garland Avenue (between Cassatt Street and Drake Street).

<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
			constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	
Ditch-04	1,120	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Roadside ditch constructed in uplands, located immediately east of Garland Avenue between Ernie Jack Blvd and Poplar Street.
Ephemeral tributary to Clabber Creek (Drain 3) (D3)	25	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Channel is mapped by NHD and topographic quadrangle; however, channel only exhibits defined bed/bank in project area beginning immediately downstream of Drake Street crossing and is ephemeral, supporting flow only in response to direct precipitation. Upstream of project area crossing, channel lacks definition and supports broad sheet flow.

### 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: [Stream/Wetland Assessment Garland Avenue \(Highway 112\) Widening, Fayetteville, AR by Harbor Environmental and Safety \(July 24, 2020\).](#)

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: Photos provided in Stream/Wetland Assessment provided by agent; Google Earth Imagery \(1994-2020\)](#)

☒ Corps site visit(s) conducted on: [February 5, 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: [Soil Survey of Washington County, Arkansas](#)

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

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

**Other data sources used to aid in this determination:**



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Data Source (select)	Name and/or date and other relevant information
USGS/WBD/NHD data/maps	HUC-11110103 (Illinois River); The National Map
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	Antecedent Precipitation Tool (APT), Version 1.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** APT was accessed for period corresponding to consultant's wetland delineation (July 16, 2020); findings: dry season, normal conditions. APT was all accessed for period corresponding to Corps site visit (February 5, 2021); findings: wet season, drier than normal conditions.
- C. Additional comments to support AJD:** Hamestring Creek is ephemeral just upstream of the project corridor, however, it transitions to intermittent immediately west (downstream) of the Garland Avenue crossing. This channel exhibits a well defined bed/bank, flow at the time of field investigations (during drier than normal conditions per APT), is mapped by NHD, mapped by the corresponding topographic quadrangle, and is well defined in aerial imagery. Therefore, this feature would be regulated as an (a)(2) water beginning immediately west of Garland Avenue. A tributary to Hamestring Creek (Drain 2) is also ephemeral upstream of the Garland Avenue crossing, however, it supports a well-defined bed/bank immediately downstream of the crossing. This channel was flowing at the time of the Corps site visit and is well-defined in aerial imagery. Therefore, this channel would be regulated as an (a)(2) water within the project area. An ephemeral channel (Drain 3), a tributary to Clabber Creek, supports ephemeral flow within the project area. The channel collects sheet flow upstream of the project area crossing and supports a poorly defined bed/bank immediately downstream of the project area. Based on the Corps site visit, wetland delineation, and aerial photography, this channel represents a (b)(3) water. Ditches 01-04 are roadside ditches associated with drainage along Garland Avenue and would be excluded as (b)(5) waters.