



**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): 1/25/2021

ORM Number: SWL-2019-00354-1

Associated JDs: N/A

Review Area Location¹: State/Territory: Arkansas City: N/A County/Parish/Borough: Sebastian

Center Coordinates of Review Area: Latitude 34.9644 Longitude -94.4241

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	
Big Cedar Creek (S-3)	108	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	A field investigation of the site occurred on October 27, 2020, by the project consultant. The water has an intermittent flow consistent with (a)(2) criteria and it flows as such in a typical year. Photographs of the water were included within the project submittal. Coordinates 34.9644; -94.4241
Unnamed tributary of	64	linear feet	(a)(2) Perennial tributary contributes	A field investigation of the site occurred on October 27, 2020, by the project consultant. The water has a perennial flow consistent with (a)(2)

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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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Sugarloaf Creek (S-5)			surface water flow directly or indirectly to an (a)(1) water in a typical year.	criteria and it flows as such in a typical year. Photographs of the water were included within the project submittal. Coordinates 34.9937; -94.4236
Sugarloaf Creek (S-6)	127	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	A field investigation of the site occurred on October 27, 2020, by the project consultant. The water has a perennial flow consistent with (a)(2) criteria and it flows as such in a typical year. Photographs of the water were included within the project submittal. Coordinates 35.0118; -94.4229
Unnamed tributary of Sugarloaf Creek (S-7)	584	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	A field investigation of the site occurred on October 27, 2020, by the project consultant. The water has an intermittent flow consistent with (a)(2) criteria and it flows as such in a typical year. Photographs of the water were included within the project submittal. Coordinates 35.0208; -94.4226

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
Unnamed tributary of Big Cedar Creek (S-1)	198	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	A field investigation of the site occurred on October 27, 2020, 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.

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
				Coordinates 34.9588; -94.4243
Unnamed tributary of Big Cedar Creek (S-2)	102	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	A field investigation of the site occurred on October 27, 2020, 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 34.9643; -94.4240
Unnamed tributary of Sugarloaf Creek (S-4)	44	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	A field investigation of the site occurred on October 27, 2020, 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 34.9839; -94.4238
Unnamed tributary of Sugarloaf Creek (S-7a)	79	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	A field investigation of the site occurred on October 27, 2020, 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 35.0213; -94.4226
Palustrine emergent wetland (W-1)	0.05	acre(s)	(b)(1) Non-adjacent wetland.	A field investigation of the site occurred on October 27, 2020, by the project consultant. The wetland is a non-adjacent wetland. 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 35.0081; -94.4231
Open Water Impoundment (OW-1)	0.01	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3)	A field investigation of the site occurred on October 27, 2020, by the project consultant. The pond is located on an ephemeral unnamed tributary of Sugarloaf Creek. The pond does not contribute surface water flow directly or indirectly to an (a)(1) and is not inundated by flooding from an (a)(1) – (a)(3) water in a typical year. Photographs of the pond were included within the project submittal. Coordinates 34.9839; -94.4230



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size		Rationale for Exclusion Determination
			water in a typical year.
Open Water Impoundment (OW-2)	0.02	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year. A field investigation of the site occurred on October 27, 2020, by the project consultant. The pond is located on an ephemeral unnamed tributary of Sugarloaf Creek. The pond does not contribute surface water flow directly or indirectly to an (a)(1) and is not inundated by flooding from an (a)(1) – (a)(3) water in a typical year. Photographs of the pond were included within the project submittal. Coordinates 35.0209; -94.4231

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: [Heavner Coking Coal Project, dated December 01, 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [The consultant has provided detailed data concerning each water of the United States, to include, maps, photographs and data sheets.](#)

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

☒ Photographs: [Aerial and Other: Information is a part of the applicant's submittal dated December 01, 2020](#)

☐ Corps site visit(s) conducted on: [No field site visits were conducted by the Corps of Engineers.](#)

☒ Previous Jurisdictional Determinations (AJDs or PJDs): [Approved Jurisdictional Determination, SWL-2019-00354, dated November 3, 2020](#)

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

☒ USDA NRCS Soil Survey: [Sebastian County, Arkansas dated October 30, 2020](#)

☐ USFWS NWI maps: [Title\(s\) and/or date\(s\).](#)

☒ USGS topographic maps: [1:24K – Hartford; 1:24K - Bates](#)

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.



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

C. Additional comments to support AJD: [N/A](#)