



**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): 1/11/2021

ORM Number: SWL 2020-00178

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 36.288254 N Longitude -94.137973 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)<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	
Altered UT to Blossom Way Creek	~701	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	USGS quadrangle AR-Bentonville South maps intermittent channel within review area that flows south to north. Partial flow from the (a)(2) intermittent tributary has been redirected through a man-made intermittent ditch listed below in Section IID. Field observation confirms an intermittent channel that exhibits base flow conditions in a typical year within the OHWM of a bed and bank channel that exhibits an average 2-3 feet width and an OHWM depth of 0.5 feet that flows into a man-made impoundment of the altered (a)(2) tributary.

<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
			The altered (a)(2) intermittent tributary is mapped within a FEMA 1-percent chance (100 year) floodplain for Rogers, Benton County, Arkansas.

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
Man-made Impoundment of UT to Blossom Way Creek	~0.55 acre(s)	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Field observation verified an 0.55 acre impoundment of an (a)(2) UT intermittent tributary of Blossom Way Creek. The man-made impoundment discharges into an (a)(4) adjacent wetland.

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Emergent Wetland	~1.72 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Field observation verified one emergent wetland area, totaling approximately 1.72 acres, within the project area. This emergent wetland area provides moderate functionality in regard to flood storage and filtration. In addition, it supported moderate diversity and would provide wildlife habitat. In general, this supports moderate wetland functions and values. The (a)(4) emergent wetland discharges through a RCB culvert crossing of W. Laurel Street to the north into an (a)(2) intermittent UT to Blossom Way Creek. In addition, the (a)(4) emergent wetland is mapped within a FEMA 1-percent chance (100 year) floodplain for Rogers, Benton County, Arkansas.

**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
Man-made Ditch	~1275 linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an	Man-made ditch that exhibits intermittent surface water flow that partially redirects flow from the (a)(2) UT to Blossom Way Creek listed above, which still exhibits intermittent flow conditions in a typical year.

<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
		(a)(4) water that do not satisfy the conditions of (c)(1).	

### 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: [Delineation of Potential Section 404 Issues, Laurel Avenue and Concord Street Project, Rogers, Benton County, Arkansas, FTN Associates, dated November 21, 2018.](#)

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: Google Earth Imagery, March 14, 1994 – September 13, 2019.](#)

☒ Corps site visit(s) conducted on: [November 10, 2020](#)

☐ 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 Benton County, Arkansas, 1977; NRCS Web Soil Survey 3.2, 2018.](#)

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

☒ USGS topographic maps: [USGS Topographic Quadrangle Bentonville South-AR](#)

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

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

**B. Typical year assessment(s):** On the field observation date of November 10, 2020, the last recorded rainfall event occurred on October 30, 2020, with a total of 0.64 inches. The USACE Antecedent Precipitation Tool (APT) indicated that at the time of field investigation, precipitation conditions included a total of 6.97 inches of rainfall observed over a 30-day period, which fell above the 70th percentile (4.16 inches) of the 30-year normal range, indicating a moderate wetness for the drought index. The 30 day observation period was preceded by dry conditions in September and October that fell below the 30th percentile of the 30-year normal range. Overall, the reports indicated an antecedent precipitation verses the normal range based on NOAA's daily global historical climatology network with an overall rating within the Normal Conditions classification. Historical imagery that indicated active flow conditions within the



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channel also fell within the Normal Conditions classification based on the USACE APT for the dates of 12/31/2003, 3/19/2014, 3/13/2018, and 11-21-2018.

- C. Additional comments to support AJD:** This jurisdictional determination is specific to an ~40-acre parcel of land. The project area is located in Benton County, Arkansas, approximately southeast of the Laurel Avenue and Concord Street intersection. Legal description of the project area is part of Sections 26, Township 19 North, Range 30 West. Center coordinates of the project area are 36.288254 N, -94.137973 W (NAD 83). The project area is located in HUC-8 (1110103) Illinois River watershed. The review area contains an emergent wetland totaling 1.72 acres in the northwestern portion of the project area, an intermittent channel totaling 701 linear feet, and a man-made impoundment within the intermittent channel totaling approximately 0.55 acres. There are portions of the project review area located within a FEMA 1-percent chance mapped floodplain.