



**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): 1/6/2021

ORM Number: SWL-2020-00362

Associated JDs: N/A.

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

Center Coordinates of Review Area: Latitude 35.11802 Longitude -94.35192

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.	

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
STR-1 (Intermittent Channel)	570 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Field observations during Corps site visit indicate the channel is intermittent with a well-defined OHWM and aquatic organisms present (the channel was flowing during the time of site visit). Aerial photography suggests intermittent flow. Wetland delineation conducted by applicant indicated the channel was intermittent.	
STR-3 (Perennial Channel)	39 linear feet	(a)(2) Perennial tributary contributes	Based on wetland delineation and Corps site visit, several factors indicate the channel supports perennial flow. These include presence of fish,	

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
			surface water flow directly or indirectly to an (a)(1) water in a typical year.	substantial flow, and substrate. NHD and USGS topographic quadrangles map channel as intermittent; however, aerial photography shows flow/water (during all years reviewed) in channel suggesting it is perennial.

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
EF-1 (ephemeral channel)	315	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Erosional feature created by sheet flow/run-off on coal refuse stockpile (gob pile).
STR-2 (ephemeral channel)	35	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral channel that directs sheet flow to the north, into STR-01. Channel lacked flow and indicators of OHWM at time of Corps site visit.
STR-4 (ephemeral channel)	191	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral channel that directs runoff from gob pile north. Channel was unmapped on NHD, USGS topographic quadrangle, and not evident on aerial photography. Channel was not flowing at time of Corps site visit.
WTL-1 (Wetland)	0.008	acre(s)	(b)(1) Non-adjacent wetland.	Wetland feature that results from excavation of upland ditch along roadway.

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: [Wetland and Stream Delineation Report, Montreal Abandoned Mine Site, Montreal, Sebastian County, Arkansas dated July 2020 by CEC, Inc.](#)

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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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: Aerial photography and site photos provided in delineation report (July 2020). Google Earth imagery 1994-2019. Photos collected during Corps site visit (January 5, 2021).**
- ☒ Corps site visit(s) conducted on: **January 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 Sebastian County, Arkansas (1975); Web Soil Survey (accessed 2021).**
- ☒ USFWS NWI maps: **National Wetland Inventory Mapper**
- ☒ USGS topographic maps: **Huntington, AR (7.5-minute series) (Years: 1951, 1966, 1987, 2014)**

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	HUC-11110105; 3DEP Elevation data
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	Antecedent Precipitation Tool Version 1.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): APT was utilized assessing the period near the time of wetland delineation field investigation (March 31, 2020). Findings: wet season, wetter than normal. APT was accessed for the period near the Corps site visit (January 2020; findings: wet season, normal conditions).

C. Additional comments to support AJD: STR-3 was identified in the wetland delineation as perennial; the Corps site visit and review of aerial photography (indicating sustained flow) confirm the channel is perennial. Channel STR-1 supports field indicators typical of an intermittent flow regime in the area (well established bed/bank and aquatic organisms present in channel). Channel EF-1 is an erosional feature that originates from a gob pile and directs sheet flow west into STR-1. STR-2 is a small ephemeral channel that directs sheet flow north into STR-1. STR-4 is a ephemeral channel that receives direct runoff from the gob pile and immediate surrounding area; this channel was identified as intermittent in the wetland delineation, however, Corps site visit and supporting data (NHD, lidar, aerial photography, and topographic quadrangles) confirm it is ephemeral. WTL-1 is an early successional wetland that was constructed in uplands (ditch constructed in uplands).