



**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): 1/22/2021
 ORM Number: SWL-2020-00380
 Associated JDs: N/A.
 Review Area Location¹: State/Territory: Arkansas City: Branch County/Parish/Borough: Franklin
 Center Coordinates of Review Area: Latitude 35.27035 Longitude -93.94488

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.	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
STR-1 (Intermittent)	718	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 as intermittent on USGS topographic quadrangle Branch, AR and by NHD. Aerial imagery suggest channel is intermittent based on amount of flow/water visible in channel in various years. CEC wetland delineation and Corps field visit confirmed intermittent status.

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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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.	

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination	
WTL-1	0.036 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Early successional wetland area that is directly connected to intermittent channel (directly abuts an (a)(2) water).	

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
OWF-1 (pit)	2.5 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).	Abandoned mining pit that was excavated in uplands for purpose of coal extraction. An intermittent channel (STR-1) eroded the southwestern bank of the pit at some point in the late 1970s making a connection in southwestern corner of the pit. Groundwater contributes to the pit water table, therefore, connection to the channel is dependent upon water table.	

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, Brotherton Abandoned Mine Site, Franklin County, Arkansas \(July 2020\) by Civil & Environmental Consultants, Inc. \(CEC\).](#)

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: Site photos provided in CEC’s wetland delineation. Aerial photography \(Google Earth 1994-2018\); Historic Aerials \(historicaerials.com\) \(1962, 1971,1983, 2006\)](#)

Corps site visit(s) conducted on: [January 20, 2021.](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\).](#)

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

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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- USDA NRCS Soil Survey: [Soil Survey of Franklin County, Arkansas \(1971\)](#); [Web Soil Survey \(accessed January 2021\)](#).
- USFWS NWI maps: [Wetland Inventory Mapper \(accessed January 2021\)](#)
- USGS topographic maps: [Branch, AR \(7.5-minute series\) \(1966, 1993, 2011, 2014, 2020\)](#)

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_8-11110202 ; HUC_10-1111020201
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	Antecedent Precipitation Tool, Version 1.
State/Local/Tribal Sources	N/A.
FEMA/FIRM maps	Flood Panel 05047C0425D (Franklin County, Arkansas)

B. Typical year assessment(s): [APT was accessed for period near Corps site visit \(January 20, 2021\)](#); findings: wet season, normal conditions.

C. Additional comments to support AJD: [The intermittent channel \(STR-1\) is mapped on USGS topographic quadrangles, NHD, and is well defined on aerial photography. The onsite field investigation confirmed the channel was intermittent based on flow, stream morphology \(pools/riffles/runs\), and the presence of aquatic life. Emergent wetland \(WTL-1\) consists of a narrow seep that connects directly to the intermittent channel, and would therefore be regulated as an \(a\)\(4\) water. The water-filled abandoned mine pit was originally constructed in uplands \(pre-CWA\) for the purpose of coal extraction \(probably in the early-mid 1900s\). Based on aerial photography, it appears an intermittent channel \(STR-1\) eroded the southwestern corner of the pit, connecting the channel to the pit \(approximate time frame of late 1970s\). Based on aerial photography it appears the connection is based upon groundwater influence to the pit, connecting to the channel only when the water table is high. The channel is not an impoundment of the pit and is connected only by erosive forces \(infrequently dependent upon water table\).](#)