



**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): 6/25/2020

ORM Number: SWL 2018-00403

Associated JDs: N/A

Review Area Location¹: State/Territory: AR City: Fayetteville County/Parish/Borough: Washington

Center Coordinates of Review Area: Latitude 36.058819 Longitude -94.223016

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.	

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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
Goose Creek	1,954	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Goose Creek is located in the central portion of the project review area. This channel flows generally east to west, but a portion of this channel exhibited a natural, sinuous morphology in the western portion of the project area. This channel averaged ~2-3 feet in width and supported an OHWM height of ~0.8 feet. The substrate consisted primarily of silt and vegetation. This intermittent channel represents the headwaters of Goose Creek (HUC12: 111101030402) which flows ~6 miles to the confluence of Illinois River ((a)(2) perennial), then

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
			~80 miles to the beginning of the (a)(1) TNW designation point of the Illinois River just prior to TenKiller Ferry Lake.

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
Pond	0.29 acre(s)	(a)(3) Lake/pond or impoundment of a jurisdictional water inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	Man-made pond in the western portion of the project review area created in Goose Creek, an intermittent tributary ((a)(2) water) that contributes water to Illinois River ((a)(1) TNW). This pond is inundated by flooding from Goose Creek as mapped within a FEMA 100-year floodplain and discharges into Goose Creek where it flow west leaving the project review area.

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.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Ephemeral W/out OHWM	244 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Non-regulated ephemeral feature that does not exhibit an OHWM that only flows in response to storm water events.
Pond	0.41 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).	Non-regulated artificial pond constructed within an ephemeral feature that does not exhibit an OHWM that only flows in response to storm water events.
Wetland A	0.02 acre(s)	(b)(1) Non-adjacent wetland.	0.02 acre wetland that meets the definition of paragraph (c)(16) and is not an (a)(4) water.

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
				Wetland A was a small emergent wetland area located behind a recently constructed pond in the southern portion of the project area that supported positive indicators of wetland hydrology, including: saturation, iron deposits, surface soil cracks, sparsely vegetated concave surface, saturation visible on aerial imagery, Micro-topographic relief, and FAC-Neutral Test. Positive indicators of hydric soils were observed at Sampling Site Nos. R-01, R-03, and R-04. A dominance of hydrophytic vegetation was observed at Sampling Site Nos. R-01, R-03, and R-04. This small wetland area (0.02 acres) was the result of seepage coming out of the pond (Non-regulated artificial pond constructed within an ephemeral feature that does not exhibit an OHWM that only flows in response to storm water events).
Wetland B	0.14	acre(s)	(b)(1) Non-adjacent wetland.	0.14 acre wetland that meets the definition of paragraph (c)(16) and is not an (a)(4) water. Wetland B is located just south of the pond (Non-regulated artificial pond constructed within an ephemeral feature that does not exhibit an OHWM that only flows in response to storm water events). This wetland area appeared to result from borrow used during pond construction. Wetland B supported positive indicators of wetland hydrology, including: saturation, iron deposits, surface soil cracks, sparsely vegetated concave surface, saturation visible on aerial imagery, Micro-topographic relief, and FAC-Neutral Test. Positive indicators of hydric soils were observed at Sampling Site Nos. R-01, R-03, and R-04. A dominance of hydrophytic vegetation was observed at Sampling Site Nos. R-01, R-03, and R-04.
Ephemeral W/OHWM	2,069	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	This channel has been altered, relocated, and channelized in the past based on historical imagery and is located at the northern portion of the project area flowing east to west in response to storm water events. This channel totals ~2,069 linear feet within the project review area and supports a width of approximately three feet and an OHWM mark height of ~0.75 feet above the base of the channel. The substrate consists primarily of silt and vegetation. This ephemeral channel discharges into Goose Creek (an



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			intermittent tributary ((a)(2) water) that contributes water to Illinois River ((a)(1) TNW).

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 Report, FTN, August 17, 2018, revised/resubmitted May 6, 2019](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

☒ Data sheets prepared by the Corps: [Antecedent Precipitation Tool Report, June 27, 2020](#)

☒ Photographs: [Aerial and Other: Site Photos 1-8, Delineation Report, FTN; Google Earth Imagery, Digiglobe Imagery](#)

☐ Corps site visit(s) conducted on: [N/A](#)

☐ Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)

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

☒ USDA NRCS Soil Survey: [SCS Soil Survey of Washington County, Arkansas, 1969; NRCS Web Soil Survey 3.2, 2018.](#)

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

☒ USGS topographic maps: [USGS AR-Fayetteville](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS The National Map – 3DEP
USDA Sources	NRCS Web Soil Survey
NOAA Sources	NOAA Daily Global Historical Climatology
USACE Sources	USACE ArcMAP
State/Local/Tribal Sources	N/A.
Other Sources	N/A.DHS-FEMA NFHL FIRMette

B. Typical year assessment(s): [Normal Conditions; SWL 2018-00403 APT Report for observation date of August 13, 2018.](#)

C. Additional comments to support AJD: This jurisdictional determination is specific to an ~74-acre parcel of land located immediately west of Ruppel Road, ~0.4 miles north of Arkansas Highway 62 in Fayetteville, Arkansas. The area of the delineation is mapped on US Geologic Survey (USGS) topographic quadrangle Fayetteville-AR (7.5-minute series). The review area is located in Sections 13 and 24, Township 16 North, Range 31 West. Center coordinates of the project area are 36.058819° N, -94.223016° W (NAD 83). The project area is located in the Illinois River watershed ([HUC] 11110103), a watershed of approximately 1,671 square miles.

The review area contains five non-jurisdictional aquatic features including: emergent Wetland A(~0.02 acres) and emergent wetland B(~0.14 acres); an ephemeral channel without an OHWM, totaling approximately 244 linear feet; a man-made pond in the southern portion of the project area (~0.41 acres); and a ephemeral channel exhibiting an OHWM totaling approximately 2,069 linear feet on the northern portion of the project area.

The review area contains two jurisdictional aquatic resources including an intermittent channel (Goose Creek) totaling ~1,954 linear feet within the project area and a man-made pond (~0.29 acres) that is constructed in the intermittent channel (Goose Creek) located on the western portion



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of the project area. Portions of the intermittent channel containing the man-made pond are mapped within a FEMA 100-year floodplain. The intermittent channel (Goose Creek) leaves the project area flowing west to the Illinois River, an (a)(1) TNW. Therefore, the intermittent channel (Goose Creek) and the man-made pond constructed in the intermittent channel (Goose Creek) are jurisdictional WOTUS.

PREPARED BY:

Date: July 19, 2020

Chris Joyner
Environmental Engineer