



**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): 6/25/2021
 ORM Number: SWL-2021-00186
 Associated JDs: N/A.
 Review Area Location¹: State/Territory: Arkansas City: Centerton County/Parish/Borough: Benton
 Center Coordinates of Review Area: Latitude 36.33552 Longitude -94.31460

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
N/A.	N/A.	N/A.	N/A.

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
N/A.	N/A.	N/A.	N/A.

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Ephemeral Channel	464	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Headwater channel that lacked an OHWM. Channel is mapped by NHD and on USGS topographic quadrangle. Field investigation showed channel lacked defined bed/banks and was dry at time of site visit (previous day the area received approximately 1” of rain).
Pond 1	0.02	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).	Man-made pond, recently excavated in uplands.
Pond 2	0.25	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).	Man-made pond. Ephemeral channel and Wetland B abut pond; however, channel is a (b)(3) water and wetland lacks adjacency, therefore pond is non-regulated (b)(8) water.
Wetland A	0.42	acre(s)	(b)(1) Non-adjacent wetland.	Emergent wetland that lacks adjacency to (a)(1) through (a)(3) waters.
Wetland B	0.75	acre(s)	(b)(1) Non-adjacent wetland.	Emergent wetland that abuts and non-regulated ephemeral channel (b)(3) water. Therefore, wetland lacks adjacency to regulated (a)(1) through (a)(3) waters.

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.

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

- Information submitted by, or on behalf of, the applicant/consultant: Title(s) and date(s)
This information [Select](#). sufficient for purposes of this AJD.
Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\)](#).
- Data sheets prepared by the Corps: [EMP Data Forms completed June 23, 2021](#).
- Photographs: [Aerial and Other: Google Earth \(1994-2020\); Historicaerials.com \(1968, 1980\); Corps site visit \(June 23, 2021\)](#)
- Corps site visit(s) conducted on: [June 23, 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 Benton County, Arkansas \(1977\); Web Soil Survey \(accessed June 17, 2021\)](#).
- USFWS NWI maps: [Accessed via National Regulatory Viewer on June 17, 2021](#).
- USGS topographic maps: [Centerton, AR \(1973, 1982, 2014\)](#)

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	The National Map (accessed June 17, 2021); National Regulatory Viewer accessed June 16, 2021 and June 17, 2021.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	Antecedent Precipitation Tool, Version 1; National Regulatory Viewer
State/Local/Tribal Sources	N/A.
Other information (specify)	Local precipitation data accessed on Weather Underground (wunderground.com), station KARBENTO124

B. Typical year assessment(s): Antecedent Precipitation Tool was accessed for period corresponding to Corps site visit on June 23, 2021. Findings: dry season, normal conditions.

Precipitation data was also accessed on Weather Underground reporting station KARBENTO124, related to a storm event that occurred on June 21, 2021 (two days preceding the Corps site visit). The station reported approximately 1.01 inches of rainfall on June 21, 2021 between the hours of 0600 and 1000.

C. Additional comments to support AJD: USGS topographic quadrangle Centerton, AR and NHD map the ephemeral channel as intermittent. A site visit indicated the channel lacked an OHWM and was dry at the time of the site visit (two days following a storm event). In addition, multiple years of aerial photography (Google Earth) support the ephemeral nature of the channel (water is not visible in aerial photography). Therefore, the channel was determined to be ephemeral and would not be regulated under the NWPR. Pond 1 was a recently excavated small pond (or pit) located in uplands. Pond 2 abuts Wetland B and the ephemeral channel, however, neither are regulated waters, therefore Pond 2 would not be regulated under the NWPR. Wetland A, an emergent wetland, is located in the extreme southwest corner of the subject property. This feature lacks adjacency to (a)(1) through (a)(3) waters and would not be regulated under the NWPR. Finally, Wetland B, also an emergent wetland, is located slightly northeast of Wetland A. Wetland B abuts the ephemeral channel and Pond 2; however, none of these features are regulated waters, therefore Wetland B lacks adjacency to (a)(1) through (a)(3) waters and would not be regulated under the NWPR.