



**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): 6/9/2021

ORM Number: SWL-2021-00174

Associated JDs: N/A.

Review Area Location¹: State/Territory: Arkansas City: Bentonville County/Parish/Borough: Benton

Center Coordinates of Review Area: Latitude 36.3448 Longitude -94.2428

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.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
WET-A	0.93 acre(s)	(b)(1) Non-adjacent wetland.	Forested wetland that lacks adjacency to (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.

Information submitted by, or on behalf of, the applicant/consultant: [Delineation of Potential Section 404 Issues Been Road Development Project Prestige Investment Group, LLC Bentonville, Benton County, Arkansas by FTN Associates, Ltd. dated May 21, 2021.](#)

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: Google Earth \(1994-2020\); FTN \(report dated May 21, 2021\); Corps site visit on June 9, 2021\).](#)

Corps site visit(s) conducted on: [June 9, 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 \(accessed via National Regulatory Viewer\).](#)

USFWS NWI maps: [NWI Maps accessed via National Regulatory Viewer.](#)

USGS topographic maps: [Bentonville South, AR \(1972, 1977, 1982, 2017\).](#)

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 (NHD)
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	National Regulatory Viewer (NHD, LiDAR); Antecedent Precipitation Tool (APT), Version 1
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): [APT was accessed for period corresponding to FTN’s site visit \(May 13, 2013\); findings: wet season, normal conditions \(preceding 30-day period exhibited above normal precipitation\).](#)

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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C. Additional comments to support AJD: FTN's wetland delineation identified a forested wetland (WET-A) totaling approximately 0.93 acres. This feature is located in an area surrounded by uplands and lacks adjacency to (a)(1) through (a)(3) waters. Therefore, this features represents a non-jurisdictional (b)(1) water.

The headwater of an intermittent channel is mapped by NHD in the southcentral portion of the project area. This feature is not mapped by historic topographic quadrangles (1972, 1977, and 1982) and is not evident on aerial photography. Based on FTN's wetland delineation and a Corps site visit, the location of the mapped channel supported uplands (no channel was discernible in the field).