



**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): 11/3/2020

ORM Number: SWL-2020-00325

Associated JDs: N/A

Review Area Location¹: State/Territory: AR City: Lowell County/Parish/Borough: Benton

Center Coordinates of Review Area: Latitude 36.25669 Longitude -94.16789

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.	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.	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.	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.

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
Eph 01	645	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 1 is a depressional linear swale that appears to direct sheet flow to the south.
Eph 02	2253	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 2 is a depressional linear swale that appears to direct sheet flow to the west.
Pond 1	0.21	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	Pond is man-made impoundment on ephemeral channel (b)(3) and has no connection to (a)(1), (a)(2), or (a)(3) waters.
Pond 2	1.84	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	Pond is man-made impoundment on ephemeral channel (b)(3) and has no connection to (a)(1), (a)(2), or (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.



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- ☒ Information submitted by, or on behalf of, the applicant/consultant: [Crafton Tull: Wetland Delineation Report, 80-acre parcel on W. Monroe Ave. in Lowell, Benton County, Arkansas dated October 14, 2020](#)

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: Provided by Applicant, Google Earth Images, and Site Visit Photos](#)
- ☒ Corps site visit(s) conducted on: [October 28, 2020](#)
- ☐ 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: [Benton County Soil Survey](#)
- ☒ USFWS NWI maps: [National Wetland Mapper Website](#)
- ☒ USGS topographic maps: [USGS topographic quadrangle Bentonville South, AR \(7.5-minute series\)](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	HUC 8 - 11110103
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	APT Version 1 Oct 7, 2020; October 27, 2020
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** [Assessment based on period near the time of wetland delineation conducted by Crafton Tull, October 7, 2020-Wet Season: drier than normal. Assessment based on period near the time of site visit conducted October 28, 2020-Wet Season: normal conditions.](#)

- C. Additional comments to support AJD:** [USGS topographic quadrangle Bentonville South, AR maps ephemeral channel Eph 01 as intermittent; in addition, both Eph 01 and Eph 02 are mapped on NHD. However, based on field observations and the wetland delineation provided by Crafton Tull, both ephemeral channels Eph 01 and Eph 02 consisted of narrow linear swales conveying sheet flow only during heavy rainfall events. No flow was observed in either channel on October 28, 2020, following three consecutive days of moderate rainfall. Pond 1 and Pond 2 were constructed on Eph 01, therefore lacking a connection to \(a\)\(1\), \(a\)\(2\), or \(a\)\(3\) waters.](#)