



**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): 11/30/2020

ORM Number: SWL-2020-00335

Associated JDs: N/A.

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

Center Coordinates of Review Area: Latitude 36.3407 Longitude 94.2375

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
Little Osage Creek Tributary 2 (Int-01)	5906	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The reach supports intermittent flow and provides a direction connection to Little Osage Creek, a perennial (a)(2) water. Aerial photography, USGS data, and consultant report/photographs support intermittent status.
Int-02	298	linear feet	(a)(2) Intermittent tributary contributes	The reach supports intermittent flow into Little Osage Creek Tributary 2 and then to Little Osage Creek. Aerial photography, USGS data, and

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
		surface water flow directly or indirectly to an (a)(1) water in a typical year.	consultant report/photographs support intermittent status.

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.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Eph-01	852	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph-01 is mapped as an intermittent channel on USGS topographic quadrangle Bentonville South, AR (7.5-minute series); however, aerial photography and photographs provided by consultant indicate the channel is ephemeral within the reach of the subject property.
Eph-02	152	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph-02 is a depressional linear swale that directs storm flow and sheet flow to the south, into Int-01.
Eph-03	168	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph-03 is a depressional linear swale that appears to direct sheet flow to the northwest.

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: [EDG Supplemental Delineation Report provided November 16, 2020](#)

This information is sufficient for purposes of this AJD.

Rationale: N/A.

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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- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial and Other: Aerial photography \(Google Earth\), delineation report provided by EDG \(November 16, 2020\)](#)
- Corps site visit(s) conducted on: [Date\(s\)](#).
- 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 Inventory Mapper Website](#)
- USGS topographic maps: [USGS Topographic Quadrangle Bentonville South \(7.5-minute series\)](#).

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	11110103-NHD
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	APT Version 1 Oct 25, 2020 - November 14, 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 EDG, October - November, 2020-Wet Season: drier than normal.](#)

C. Additional comments to support AJD: [Little Osage Creek Tributary 2 \(Int-01\) supports a reach of intermittent flow within the project area evident on aerial photography and as provided by the consultant. Int-02, a mapped, intermittent tributary to Int-01, supports intermittent flow based on aerial photography, USGS topographic maps, and photography provided by the consultant. Ephemeral tributaries Eph-01, Eph-02, and Eph-03 exhibited ephemeral conditions based on consultant report provided by EDG, aerial photography, and USGS topographic quadrangles.](#)