



**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): 9/18/2020

ORM Number: SWL-2019-00308

Associated JDs: N/A

Review Area Location¹: State/Territory: Arkansas City: Maumelle County/Parish/Borough: Pulaski

Center Coordinates of Review Area: Latitude 34.8703° Longitude -92.3807°

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
Stream S-1	456	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on the analysis in GBMc & Associates (GBMc) delineation, observations from USACE's 9/15/20 field review, evidence in maps and aerial photographs of the area, and spatial data from various other sources (see III. Supporting Information), this 456-foot-long section of stream is ephemeral exhibiting surface water flow only in direct response to storm related precipitation events. See also Section III, Subsection C for stream observation information.
Stream S-2	803	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on the analysis in GBMc & Associates (GBMc) delineation, observations from USACE's 9/15/20 field review, evidence in maps and aerial photographs of the area, and spatial data from various other sources (see III. Supporting Information), this 803-foot-long section of stream is ephemeral exhibiting surface water flow only in direct response to storm related precipitation events. See also Section III, Subsection C for stream observation information.
Stream S-3	269	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on the analysis in GBMc & Associates (GBMc) delineation, observations from USACE's 9/15/20 field review, evidence in maps and aerial photographs of the area, and spatial data from various other sources (see III. Supporting Information), this 269-foot-long section of stream is ephemeral exhibiting surface water flow only in direct response to storm related precipitation events. See also Section III, Subsection C for stream observation information.
Stream S-4	705	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on the analysis in GBMc & Associates (GBMc) delineation, observations from USACE's 9/15/20 field review, evidence in maps and aerial photographs of the area, and spatial data from various other sources (see III. Supporting Information), this 705-foot-long section of stream is ephemeral exhibiting surface water flow only in direct response to storm related precipitation events. See also Section III, Subsection C for stream observation information.
Stream S-5	1205	linear feet	(b)(3) Ephemeral feature, including	Based on the analysis in GBMc & Associates (GBMc) delineation, observations from USACE's

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	
		an ephemeral stream, swale, gully, rill, or pool.	9/15/20 field review, evidence in maps and aerial photographs of the area, and spatial data from various other sources (see III. Supporting Information), this 1205-foot-long section of stream is ephemeral exhibiting surface water flow only in direct response to storm related precipitation events. See also Section III, Subsection C for stream observation information.	
Wetland W-1	0.44	acre(s)	(b)(1) Non-adjacent wetland.	<p>This wetland is located in area of minimal flood risk (Zone X [unshaded]) with a 0.2% chance of annual flooding (500 year flood) indicating that W-1 is not inundated by an a(1)–(3) water in a typical year.</p> <p>Based on the analysis in GBMc's delineation, observations from USACE's 9/15/20 field review, evidence in maps and aerial photographs of the area, and spatial data from various other sources (see III. Supporting Information), this wetland abuts only a (b)(3) ephemeral feature which are not jurisdictional waters under the NWPR.</p> <p>This wetland does not meet the adjacency criteria and conditions in 33 CFR 328.3(c)(1)(iii) and (iv) of the NWPR. Specifically, W-1 is not physically separated from an a(1)–(3) water by only a single natural feature as there are no a(1)–(3) waters between W-1 and a single natural feature. W-1 is also not physically separated by an a(1)–(3) water by only a single artificial structure or feature that allows for a direct hydrological surface connection to an a(1)–(3) water as there are no a(1)–(3) waters between W-1 and a single artificial structure or feature with a hydrologic connection to an a(1)–(3) water.</p>
Wetland W-2	0.07	acre(s)	(b)(1) Non-adjacent wetland.	<p>This wetland is located in area of minimal flood risk (Zone X [unshaded]) with a 0.2% chance of annual flooding (500 year flood) indicating that W-2 is not inundated by an a(1)–(3) water in a typical year.</p> <p>Based on the analysis in GBMc's delineation, observations from USACE's 9/15/20 field review, evidence in maps and aerial photographs of the area, and spatial data from various other sources (see III. Supporting Information), this wetland abuts only a (b)(3) ephemeral feature which are not jurisdictional waters under the NWPR.</p>



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Excluded waters ((b)(1) – (b)(12)). ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
			<p>This wetland does not meet the adjacency criteria and conditions in 33 CFR 328.3(c)(1)(iii) and (iv) of the NWPR. Specifically, W-2 is not physically separated from an a(1)–(3) water by only a single natural feature as there are no a(1)–(3) waters between W-2 and a single natural feature. W-2 is also not physically separated by an a(1)–(3) water by only a single artificial structure or feature that allows for a direct hydrological surface connection to an a(1)–(3) water as there are no a(1)–(3) waters between W-2 and a single artificial structure or feature with a hydrologic connection to an a(1)–(3) water.</p>	
Wetland W-3	0.11	acre(s)	(b)(1) Non-adjacent wetland.	<p>This wetland is located in area of minimal flood risk (Zone X [unshaded]) with a 0.2% chance of annual flooding (500 year flood) indicating that W-3 is not inundated by an a(1)–(3) water in a typical year.</p> <p>Based on the analysis in GBMc's delineation, observations from USACE's 9/15/20 field review, evidence in maps and aerial photographs of the area, and spatial data from various other sources (see III. Supporting Information), this wetland abuts only a (b)(3) ephemeral feature which are not jurisdictional waters under the NWPR.</p> <p>This wetland does not meet the adjacency criteria and conditions in 33 CFR 328.3(c)(1)(iii) and (iv) of the NWPR. Specifically, W-3 is not physically separated from an a(1)–(3) water by only a single natural feature as there are no a(1)–(3) waters between W-3 and a single natural feature. W-3 is also not physically separated by an a(1)–(3) water by only a single artificial structure or feature that allows for a direct hydrological surface connection to an a(1)–(3) water as there are no a(1)–(3) waters between W-3 and a single artificial structure or feature with a hydrologic connection to an a(1)–(3) water.</p>
Wetland W-4	0.65	acre(s)	(b)(1) Non-adjacent wetland.	<p>This wetland is located in area of minimal flood risk (Zone X [unshaded]) with a 0.2% chance of annual flooding (500 year flood) indicating that W-4 is not inundated by an a(1)–(3) water in a typical year.</p> <p>Based on the analysis in GBMc's delineation, observations from USACE's 9/15/20 field review,</p>



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Excluded waters ((b)(1) – (b)(12)). ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
			<p>evidence in maps and aerial photographs of the area, and spatial data from various other sources (see III. Supporting Information), this wetland abuts only a (b)(3) ephemeral feature which are not jurisdictional waters under the NWPR.</p> <p>This wetland does not meet the adjacency criteria and conditions in 33 CFR 328.3(c)(1)(iii) and (iv) of the NWPR. Specifically, W-4 is not physically separated from an a(1)–(3) water by only a single natural feature as there are no a(1)–(3) waters between W-4 and a single natural feature. W-4 is also not physically separated by an a(1)–(3) water by only a single artificial structure or feature that allows for a direct hydrological surface connection to an a(1)–(3) water as there are no a(1)–(3) waters between W-4 and a single artificial structure or feature with a hydrologic connection to an a(1)–(3) water.</p>	
Wetland W-5	0.29	acre(s)	(b)(1) Non-adjacent wetland.	<p>This wetland is located in area of minimal flood risk (Zone X [unshaded]) with a 0.2% chance of annual flooding (500 year flood) indicating that W-5 is not inundated by an a(1)–(3) water in a typical year.</p> <p>Based on the analysis in GBMc's delineation, observations from USACE's 9/15/20 field review, evidence in maps and aerial photographs of the area, and spatial data from various other sources (see III. Supporting Information), this wetland abuts only a (b)(3) ephemeral feature which are not jurisdictional waters under the NWPR.</p> <p>This wetland does not meet the adjacency criteria and conditions in 33 CFR 328.3(c)(1)(iii) and (iv) of the NWPR. Specifically, W-5 is not physically separated from an a(1)–(3) water by only a single natural feature as there are no a(1)–(3) waters between W-5 and a single natural feature. W-5 is also not physically separated by an a(1)–(3) water by only a single artificial structure or feature that allows for a direct hydrological surface connection to an a(1)–(3) water as there are no a(1)–(3) waters between W-5 and a single artificial structure or feature with a hydrologic connection to an a(1)–(3) water.</p>



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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: [An aquatic resources delineation in AJD Request – Champs Site, emailed to USACE on June 30, 2020 by GBMc & Associates \(GBMc\)](#)
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: [Title\(s\) and/or date\(s\).](#)
 - ☒ Photographs: [Aerial: Site Photos in Delineation Report, GBMc; Google Earth Imagery \(all images available in the historical imagery feature between 1994 and 2018\)](#)
 - ☒ Corps site visit(s) conducted on: [9/15/20](#)
 - ☐ 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: [NRCS Web Soil Survey 3.3.2, accessed online for the project area on September 21, 2020](#)
 - ☒ USFWS NWI maps: [USFWS Wetlands Mapper, accessed online for the project area on September 21, 2020](#)
 - ☒ USGS topographic maps: [USFWS Wetlands Mapper, accessed online for the project area on September 21, 2020](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	NRCS Web Soil Survey 3.3.2 – Map Unit Description for Linker gravelly fine sandy loam
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	FEMA National Flood Hazard Layer Viewer; USACE 1987 manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0) (USACE Engineer Research and Development Center 2012)

- B. Typical year assessment(s):** [Based on GBMc & Associates April 12, 2019 wetland delineation, weather conditions on the 12th were sunny and warm. Prior to the site visit the region received approximately 0.31 inches of rain over a five-day period ending on April 12, 2019, based on data from Weather Underground weather history1. In addition, the region has received greater than normal amounts of rainfall over the last few months.](#)
- C. Additional comments to support AJD:** [According to GBMc & Associates' \(GBMc\) April 2019 aquatic resources delineation of the project property, there are five streams \(S-1, S-2, S-3, S-4 and S-5\) and five wetlands \(W-1, W-2, W-3, W-4 and W-5\) within the property boundaries. GBMc classified the streams as ephemeral. In the AJD request letter, GBMc indicated that, because the streams are ephemeral and the wetlands are connected only to the ephemeral streams, there are no jurisdictional aquatic resources, as defined in the 2020 Navigable Waters Protection Rule \(NWPR\), on the property.](#)



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On September 15, 2020, USACE conducted a field inspection to observe the aquatic resource identified in the delineation and identify features and characteristics indicating whether or not the aquatic resources are jurisdictional WOTUS. All five of the wetlands exhibit the hydrology, vegetation, and soil indicators documented in GBMc's delineation that are necessary for classification as wetlands. However, the wetlands do not meet any of the adjacency criteria under the definition of Adjacent Wetlands in the NWPR (33 CFR 328.3(c)(1)). Specifically, there are no jurisdictional waters (i.e., a(1)–a(3) waters) close enough to W-1, W-2, W-3, W-4 and W-5 to share a hydrological surface connection nor are they close enough to a jurisdictional water to be physically separated by only a single natural feature or to be physically separated by only a single artificial structure or feature. Additionally, the wetlands are not inundated by flooding from jurisdictional waters in a typical year. They are in fact located within a 500-year floodplain (Flood Zone X [unshaded]) with a 0.2 percent chance of annual flooding, indicating that annual seasonal flooding is extremely unlikely.

The five ephemeral streams exhibit weakly- to moderately-defined bed and bank features and did not convey any water at the time of the field inspection. Numerous instances of leaf litter and amassed debris observed during the field inspection are evident in the stream channels, suggesting flows of short duration like, for example, during a rain event or even seasonally. Leaf litter and debris does not tend to accumulate in perennial streams and, to a degree, intermittent streams, where water flow is more constant and consistent and able to carry leaves and debris out of the stream channel. The stream beds are comprised primarily of silt and do not exhibit depositional features such as sediment grading evident in non-ephemeral stream flow environments. Although the ephemeral stream channels exhibit evidence for bed and bank, there are locations along the channels where terrestrial plants are growing inside the channel beds, suggesting flows are not frequent enough to prevent terrestrial plant growth within the channels. Given the stream characteristics observed during the September field inspection, the streams documented in the delineation are ephemeral.

Based on GBMc's delineation, observations from USACE's September 15, 2020 field inspection, evidence in maps and aerial photographs of the area, and spatial data from various other sources (see III. Supporting Information), USACE has determined that the streams and wetlands within the project property are not jurisdictional waters as defined in the NWPR.

This jurisdictional determination is specific to an approximately 121-acre property located in Pulaski County, Arkansas in the city of Maumelle. The property is on the north side of Champs Road. The area of the delineation is mapped on the Maumelle, Arkansas U.S. Geological Survey (USGS) 7.5 minute topographic quadrangle and the legal description is SW ¼ of the SW ¼ of section 27, T. 3 N., R. 13 W. Coordinates of the approximate property center are 34.87034 °N, -92.380727 °W. The property is located in the Lower Arkansas-Maumelle watershed ([HUC] 11110207), a watershed of approximately 1126.78 square miles. The review area contains 5 non-jurisdictional ephemeral streams and 5 non-jurisdictional wetlands. The entire property is located within a FEMA Flood Zone X (unshaded) indicating 500-year floodplain of minimal flood hazard.

Prepare by:

Chris Wrbas

Chris Wrbas

Project Manager