



**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): 8/2/2021

ORM Number: SWL-2021-00217

Associated JDs: N/A.

Review Area Location¹: State/Territory: Arkansas City: Fayetteville County/Parish/Borough: Washington

Center Coordinates of Review Area: Latitude 36.1292 Longitude -94.1112

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
PER-01	760	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	PER-01 (locally known as Hilton Creek), is mapped as intermittent by historic USGS topographic quadrangles, however, is mapped as perennial by recent topographic quadrangles (2014 and 2017) and by NHD. Consultant wetland delineation identifies as perennial; however, Corps site visit and aerial imagery (Google Earth) supports intermittent flow regime (channel was not flowing at time of Corps site visit).

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**

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.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
WET-A	0.76	acre(s)	(b)(1) Non-adjacent wetland.	Emergent wetland located in western portion of subject property, lacking adjacency to (a)(1) through (a)(4) waters.
WET-B	0.90	acre(s)	(b)(1) Non-adjacent wetland.	Emergent wetland located in northern portion of subject property. Ephemeral channel (EPH-02) enters feature from the west. No connection to regulated (a)(1) through (a)(4) waters.
WET-C	0.40	acre(s)	(b)(1) Non-adjacent wetland.	Emergent wetland located just south of man-made pond (OW-1). Ephemeral channel (UPL-01) enters feature from the west. Lacks adjacency to (a)(1) through (a)(4) waters.
WET-D	0.05	acre(s)	(b)(1) Non-adjacent wetland.	Emergent wetland located in northern portion of subject property; a man-made ditch (Ditch-03, a (b)(5) water) enters feature from the south. Lacks adjacency to (a)(1) through (a)(4) waters.
WET-E	0.31	acre(s)	(b)(1) Non-adjacent wetland.	Feature abuts man-made ditch (Ditch-04); however, lacks adjacency to (a)(1) through (a)(4) waters.
WET-F	1.6	acre(s)	(b)(1) Non-adjacent wetland.	Emergent wetland located in the southern portion of the project area that abuts ephemeral channel (EPH-01). Channel would not be regulated as EPH-01 represents a (b)(3) water. Channel lacks adjacency to regulated (a)(1) through (a)(4) waters.
WET-G	0.26	acre(s)	(b)(1) Non-adjacent wetland.	Emergent channel located adjacent to EPH-01 ((b)(3) water). Feature lacks adjacency to regulated (a)(1) through (a)(4) waters.
WET-H	0.28	acre(s)	(b)(1) Non-adjacent wetland.	Emergent wetland located in the southeastern portion of subject property. Ephemeral channel (UPL-04), a (b)(3) feature, abuts this wetland to the east. Lacks adjacency to (a)(1) through (a)(4) waters.

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**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
WET-I	1.24	acre(s)	(b)(1) Non-adjacent wetland.	Emergent wetland located in the southeastern portion of the subject property that is located in surrounding uplands and lacks connection to (a)(1) through (a)(4) waters.
EPH-01	708	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral channel that flows north in the eastern portion of the subject property. The channel supports a discontinuous ordinary high water mark (OHWM), with reaches of channel being poorly defined and vegetated with upland vegetation. Upon exiting the subject property, the channel lacks definition and enters an upland area of broad sheet flow, eventually entering a pond located north of the subject property. The channel was dry at the time of the Corps site visit on July 29, 2021. Channel is not mapped by historic USGS topographic quadrangle Sonora, AR; however, is mapped as intermittent by NHD. Based on the consultant's wetland delineation and Corps site visit, however, the channel is ephemeral and ultimately lacks connection to regulated waters, therefore the channel represents a (b)(3) feature and would not be regulated under the NWPR.
EPH-02	95	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	This likely man-made feature is located in the western portion of the subject property. The channel lacks an OHWM and was dry at the time of Corps site visit. Feature is unmapped by USGS quadrangle and NHD.
Ditch-01	460	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Man-made ditch constructed in uplands; does not connect to regulated waters.
Ditch-02	404	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Man-made ditch constructed in uplands, conveys sheet flow north, but does not connect to regulated waters.



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

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
Ditch-03	799	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Man-made ditch constructed in uplands, conveys sheet flow north and not connected to (a)(1) through (a)(4) waters.
Ditch-04	770	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Man-made ditch constructed in uplands that directs sheet flow north. Does not connect to (a)(1) through (a)(4) waters.
Ditch-05	978	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Man-made ditch constructed in uplands that directs sheet flow north. Lacks adjacency/connection to (a)(1) through (a)(4) waters.
Ditch-06	446	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Man-made ditch that directs sheet flow northward, lacks adjacency to (a)(1) through (a)(4) waters.
UPL-01	400	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Poorly defined channel that lacks an OHWM and directs sheet flow eastward into WET-C.
UPL-02	467	linear feet	(b)(3) Ephemeral feature, including an ephemeral	Vegetated swale (lacking an OHWM) that directs sheet flow northward exiting property just west of EPH-01.



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

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
		stream, swale, gully, rill, or pool.	
UPL-03	367	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Vegetated swale (lacking an OHWM) that directs sheet flow northwestward to EPH-01.
UPL-04	184	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Poorly defined channel, supporting upland vegetation, that exits WET-H and directs sheet flow westward to EPH-01. Lacks an OHWM.
OW-1	0.36	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 constructed in uplands.

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 Proposed Chandler Crossing Subdivision, Fayetteville, Washington County, Arkansas by FTN Associates, Ltd. dated February 1, 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 \(Aerial imagery from 1994-2020\); FTN Associates \(wetland delineation report dated February 1, 2021\); Corps site visit \(July 29, 2021\).](#)

Corps site visit(s) conducted on: [July 29, 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: [Web Soil Survey \(accessed July 22, 2021\).](#)

USFWS NWI maps: [Accessed via National Regulatory Viewer \(NRV\) on July 21, 2021.](#)

USGS topographic maps: [Sonora, AR \(1965, 1977, 1990, 1998, 2014, and 2017\)](#)

Other data sources used to aid in this determination:



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

Data Source (select)	Name and/or date and other relevant information
USGS/WBD/NHD data/maps	NHD data accessed on the National Map (USGS) and on NRV.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	Antecedent Precipitation Tool (APT), Version 1; NRV (LiDAR, NHD, NWI, Soils)
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): APT was accessed for period corresponding to FTN wetland delineation on January 26 and 27, 2021, and Corps site visit (July 29, 2021). Findings: January 26 and 27, 2021: wet season, normal conditions; July 29, 2021: dry season, normal conditions.

C. Additional comments to support AJD: The subject property is generally level, sloping gently southward with numerous man-made ditches and emergent wetland areas interspersed. A wetland complex (Wetlands F, G, and H) is located in the central portion of the subject property. However, this wetland area is connected by only an ephemeral channel (EPH-01). This channel supported a discontinuous OHWM and was dry at the time of the Corps site visit. Aerial photography suggest this feature does support water at times during the wet season, however, it exhibited a defined bed/bank irregularly (in short reaches) along its reach within the subject property. Upon exiting the property the channel is undefined. Wetlands (WET-A through WET-E) in the northwestern/northcentral portion of the subject property are similarly connected only by man-made ditches or ephemeral channels and lack adjacency to regulated waters. In summary, channel EPH-01, the man-made ditches (Ditch-01 through Ditch-05), additional ephemeral channels (UPL-01 through 04; EPH-02), man-made pond (OW-1), and emergent wetlands (WET-A through WET-I) would not be regulated under the NWPR either due to lack of adjacency (ponds, wetlands) or due to ephemeral status.

An intermittent channel, identified as PER-01 (locally known as Hilton Creek), a tributary to Clear Creek, flows from west to east in the northeastern portion of the project area. This channel would be regulated as an (a)(2) water under the NWPR.