



**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): 8/31/2021

ORM Number: SWL-2021-00247

Associated JDs: N/A.

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

Center Coordinates of Review Area: Latitude 36.0383 Longitude -94.1422

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	0.62	acre(s)	(b)(1) Non-adjacent wetland.	Non-adjacent emergent wetland abutting a man-made open water feature (OW-1). Open water feature (OW-1) is connected only by a man-made ditch lacking an OHWM, therefore WET-A lacks adjacency to regulated waters.
WET-B	0.03	acre(s)	(b)(1) Non-adjacent wetland.	Non-adjacent emergent wetland in southeastern portion of subject property that is adjacent to man-made ditch constructed in uplands.
OW-1	0.21	acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Man-made retention basin for stormwater collection.
OW-2	0.04	acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Man-made retention basin for stormwater collection/treatment.
DD-1	110	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 and lacking an OHWM.

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
DD-2	962	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 located near southern boundary of subject property that was constructed in uplands.
DD-3	18	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 enters DD-2) located in southeast corner of subject property 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 Marshalltown Expansion Project Fayetteville, Washington County, Arkansas by FTN Associates, Ltd. dated August 16, 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 Associates \(photos provided in wetland delineation dated August 16, 2021\).](#)

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: [Soils Survey accessed via National Regulatory Viewer \(NRV\) on August 31, 2021.](#)

USFWS NWI maps: [NWI maps accessed via NRV on August 31, 2021.](#)

USGS topographic maps: [Fayetteville, AR \(1961, 1977, 2014\)](#)

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	NHD maps accessed via NRV on August 31, 2021.
USDA Sources	N/A.



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Data Source (select)	Name and/or date and other relevant information
NOAA Sources	N/A.
USACE Sources	Antecedent Precipitation Tool, Version 1.; NRV (for NHD, LiDAR, Soils)
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** ATP was accessed for period corresponding to FTN's site visit (July 28, 2021); findings: dry season, normal conditions.
- C. Additional comments to support AJD:** The subject property supports a large commercial building and associated parking; however, eastern portions of the parcel support early successional communities. Based on USGS topographic quadrangle Fayetteville, AR, and NHD the property lacks mapped channels or additional water features. FTN Associates, Ltd. identified seven features on the property, consisting primarily of man-made features. Two of these features were emergent wetlands (WET-A and WET-B) that were non-adjacent to waters of the U.S., representing (b)(1) waters. Two stormwater retention features were observed, representing (b)(11) waters that are not regulated under the NWPR. Finally, three man-made ditches, constructed in uplands, were observed in the central and southern portion of the subject property. These features represent (b)(5) waters that are not regulated under the NWPR.