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): 7/12/2021
ORM Number: SWL-2020-00242
Associated JDs: N/A or ORM numbers and identifiers (e.g. HQS-2020-00001-MSW-MITSITE).
Review Area Location[1]: State/Territory: Arkansas City: Bryant County/Parish/Borough: Saline
Center Coordinates of Review Area: Latitude 34.6257°N Longitude 92.4725°W

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
S-1	1,095	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	S-1 is a large stream exhibiting riffle-pool morphology. It is a tributary of Crooked Creek, which flows into Fourche Creek. Fourche Creek is a known urban kayaker float and is an (a)(1) water and becomes Section 10 shortly before it flows under Interstate 30. S-1 is the drainage for all jurisdictional waters onsite.
S-2	266	linear feet	(a)(2) Intermittent tributary contributes	S-2 is a moderately sized stream that exhibited significant flow during the site visit. The presence of

[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.

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.	rather large fish was noted during the site visit. Flows into S-1 at the western edge of the property.
S-3	992	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Flow present during site visit, as well as evidence of a hyporheic zone (saturated 'squishy' soils surrounding the stream, crayfish burrows). The amount of flow appears to be fairly small, but is definitely more than in direct response to precipitation. S-3 and S-4 converge and flow down to the pond, but also around the pond as S-5 and off the property. Topo indicates stream flows into S-1 approximately ½ mile downstream.
S-4	819	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Flow present during site visit, as well as evidence of a hyporheic zone (saturated 'squishy' soils surrounding the stream, crayfish burrows). The amount of flow appears to be fairly small, but is definitely more than in direct response to precipitation. S-3 and S-4 converge and flow down to the pond, but also around the pond as S-5 and off the property. Topo indicates stream flows into S-1 approximately ½ mile downstream.
S-5	457	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Flow present during site visit. S-5 appears to have been ditched and was likely moved when P-1 was created. S-3 and S-4 flow into S-5 and off the property as mentioned above.

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
P-1	N/A.	acre(s)	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	S-3 and S-4 provide flow to and are directly connected to P-1. Additionally, S-5 is also directly connected and flows downstream and into S-1. The pond appears to be man-made, but it does contribute surface water indirectly to an (a)(1) water in a typical year.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
W-2	N/A.	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-2 abuts and is associated with both S-4 and the combined S-3 and S-4 reach, and also abuts the portion of S-5 that is nearest to the pond.
W-3	N/A.	acre(s)	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	Wetland is closer to S-5 than indicated on figure – as close as 5 feet in at least one area. Wrack lines and pushed over vegetation indicate that significant flow can occur from S-5 and does flow into this wetland.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
W-1	N/A.	acre(s)	(b)(1) Non-adjacent wetland.	W-1 is a seep but there is no direct connection to any jurisdictional feature.
P-2	0.3	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).	Inspection of various aerial imagery indicates no visible water feature flowing into this pond. The topo does indicate a stream exiting the pond, and a spillway was observed, but no consistent stream feature was able to be observed.

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: GSFBC Raymar Road Property – AJD Request dated August 5, 2020

This information is and is not sufficient for purposes of this AJD.

Rationale: The delineation utilizes the North Carolina Division of Water Quality Methodology for Identification of Intermittent and Perennial Streams and Their Origins to determine whether a stream is ephemeral, intermittent, or perennial. This Method is irrelevant to the current definition of ephemeral and intermittent from Corps regulations and seems likely to dramatically underreport intermittent streams, leading to erroneous jurisdiction predictions. As noted above, W-3 is much closer to S-5 than indicated on the figure as well.

[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.

- ☐ Data sheets prepared by the Corps: Title(s) and/or date(s).
- ☒ Photographs: Aerial and Other: See Google Earth Pro; Digital Globe aerial imagery. See photographs in electronic folder "April 27 Site Visit"
- ☒ Corps site visit(s) conducted on: 27 April 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: Title(s) and/or date(s).
- ☐ USFWS NWI maps: Title(s) and/or date(s).
- ☐ USGS topographic maps: Title(s) and/or date(s).

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	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): APT run for 25 April 2021 as well as 25 July 2020 (date of delineation) indicate normal conditions for both time periods. Note that April is considered the wet season while July is the dry season.

C. Additional comments to support AJD: This jurisdictional determination is specific to an approximately 52-acre site located in S 23, T. 1 S., R 14 W. at the southeast corner of the Raymar Road/Bryant Parkway intersection. S-1 is perennial and the single watershed for the property. S-2 is intermittent and has been ditched but is clearly visible on aerial imagery dating back to 1994. S-3 and S-4 are clearly visible as well, and it is apparent that P-1 was created by impounding the combined flow of these two intermittent tributaries, and that P-5 was dug in order to provide drainage (rather than a traditional spillway). Wetlands W-1, W-2, and W-3 can be seen on this imagery, though their extent appears to have changed somewhat over the years. W-1 is a classic seep wetland but is excluded from federal jurisdiction. W-2 abuts S-3, S-4, and S-5 and is an (a)(4) water of the United States. W-3 is adjacent to S-5 and is an (a)(4) water of the United States because it is flooded by S-5 in a typical year.