



**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): 7/8/2021

ORM Number: SWL-2021-00194

Associated JDs: N/A.

Review Area Location<sup>1</sup>: State/Territory: Arkansas City: Centerton County/Parish/Borough: Benton

Center Coordinates of Review Area: Latitude 36.32805 Longitude -94.30914

**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)<sup>2</sup>**

§ 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): <sup>3</sup>				
(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
OW-1	1792	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Channel is mapped as intermittent by NHD and USGS quadrangle Centerton, AR. Aerial photography shows water/flow in channel in multiple years. Consultant wetland delineation indicated flow, well-defined bed/banks, and riffle/run/pool complex. Corps site visit confirmed intermittent status based on stream morphology and water in pools during dry season.
OW-2	1521	linear feet	(a)(2) Intermittent tributary contributes	Channel is mapped as intermittent my NHD and USGS quadrangle Centerton, AR. Aerial photography shows water/flow in channel in multiple

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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.	years. Consultant wetland delineation indicated flow, well-defined bed/banks, and riffle/run/pool complex. Stream supported water in pools during Corps site visit (dry season).

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)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
W-1	0.20 acre(s)	(b)(1) Non-adjacent wetland.	A shallow depression that is man-made (most likely intended as a stock pond) and presently supports emergent wetland conditions. The area is near OW-1, however, it not hydrologically connected. Therefore, the feature is non-jurisdictional lacking a connection to (a)(1) through (a)(4) waters.
W-2	0.04 acre(s)	(b)(1) Non-adjacent wetland.	A depression (supporting emergent wetland conditions) located just north of EPH-01. The feature is surrounded by uplands and lacks connectivity to (a)(1) through (a)(4) waters.
W-3 (Pond-1)	0.44 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 (and fringe wetland) constructed in uplands. Pond is connected to an ephemeral channel (EPH-1); however, channel is non-jurisdictional and therefore pond is non-jurisdictional due to lack of nexus to (a)(1) through (a)(4) waters.

<sup>4</sup> 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.

<sup>5</sup> 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)): <sup>4</sup>				
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination	
W-4	0.05	acre(s)	(b)(1) Non-adjacent wetland.	Emergent wetland resulting from seepage from man-made pond located west of subject property. Feature is not connected to regulated (a)(1) through (a)(4) waters and is therefore non-jurisdictional.
W-5 (Pond-2)	0.31	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.
EPH-1	1350	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral channel that supports a poorly defined bed/bank and sporadic OHWM. The channel is not mapped by historic topographic quadrangle Centerton, AR; however, it is mapped as intermittent by NHD. Corps site visit showed channel lacked continuous OHWM, was dry at time of field visit, and supported upland vegetation with the channel bottom.
EPH-2	205	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Headwater ephemeral channel unmapped by USGS topographic quadrangle and NHD. Channel lacks bed/banks and was dry at time of field visit.

**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: [Request for an Approved Jurisdictional Determination Motley and Vaughn Subdivision, Benton County, AR by Crafton Tull dated June 8, 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 \(1994-2020\); Crafton Tull wetland delineation \(June 8, 2021\); Corps site visit \(July 6, 2021\).](#)

Corps site visit(s) conducted on: [July 6, 2021.](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\).](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)



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- USDA NRCS Soil Survey: Soil data provided by Crafton Tull in wetland delineation report and accessed on National Regulatory Viewer (June 28, 2021).
- USFWS NWI maps: Provided by Crafton Tull (report dated June 8, 2021).
- USGS topographic maps: Centerton, AR (1973, 1982, 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 accessed via National Regulatory Viewer (accessed June 28, 2021); The National Map (accessed June 30, 2021); LiDAR
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	Antecedent Precipitation Tool (APT), Version 1; National Regulatory Viewer (LiDAR, NHD, Soils Layer, FEMA floodplain maps)
State/Local/Tribal Sources	N/A.
Other Sources	Historic Aerials ( <a href="http://www.historicaerials.com">www.historicaerials.com</a> ) – historic topographic quadrangles

**B. Typical year assessment(s):** APT was accessed for period of Crafton Tull’s wetland delineation (May 3, 2021). Findings: wet season, wetter than normal conditions (above normal precipitation). A heavy rain event occurred April 28, 2021 (station average of 5.2”) with smaller events (approximately 0.5”) occurring May 2 and May 3, 2021. APT was access for period corresponding to Corps site visit (July 6, 2021); findings: dry season, normal conditions.

**C. Additional comments to support AJD:** Two channels are mapped by USGS topographic quadrangle Centerton, AR (OW-1 and OW-2). These channels are also mapped as intermittent by NHD and both are identified as intermittent in Crafton Tull’s wetland delineation. Aerial photography also indicates water and flow in multiple periods of record (Google Earth). Based on the available data, Crafton Tull’s report, and a Corps site visit, both channels were determined to be intermittent and would be regulated as (a)(2) waters under the NWPR.

W-1 represents a shallow man-made pond that supports emergent hydrophytic vegetation. This feature abuts an ephemeral channel, however, is not adjacent/abutting OW-2 (intermittent channel). This feature would not be regulated under the NWPR due to lack of adjacency to regulated waters. W-2 is a small depression (likely a small man-made pond) that supports wetland conditions, but lacks connectivity to regulated waters. W-3 is man-made pond and associated fringe wetlands that is abuts an ephemeral channel (EPH-1). Because this feature was constructed in uplands and lacks adjacency to regulated waters, it would not be regulated under the NWPR. W-4 supports emergent wetlands located east of an off-site pond. The wetland results from seepage from the nearby pond and ponding/direct precipitation. This feature was observed to be isolated from regulated waters ((a)(1) through (a)(3) waters) and therefore wouldn’t be regulated under the NWPR. W-5 is a man-made pond constructed in uplands, a (b)(8) water that would not qualify for jurisdiction under the NWPR.

EPH-1 is an ephemeral channel that supports a poorly defined bed/bank, a discontinuous OHWM, and supported upland vegetation within its banks. The channel was dry at the time of the Corps site visit; however, was flowing during Crafton Tull’s May 3, 2021, site visit (following heavy storm events). Based on aerial photography, historic topographic quadrangle Centerton, AR, and observations made during the Corps site visit, the channel was determined to be ephemeral ((b)(3) water) and would not be regulated



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under the NWPR. EPH-2 is a poorly defined headwater channel that lacks an OHWM and conveys sheet flow east into EPH-1. EPH-2 was determined to be an ephemeral channel (due to lack of OHWM and based on aerial photography) and would not be regulated under the NWPR.