



**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): 6/30/2021

ORM Number: SWL-2021-00085

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Arkansas City: Little Rock County/Parish/Borough: Pulaski

Center Coordinates of Review Area: Latitude 34.659039 Longitude -92.270031

**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
Fish Creek	2,430	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Fish Creek flows into Lorange Creek, which flows into Pennington Bayou, which flows into the Arkansas River (an (a)(1) river) near the Pulaski/Jefferson County line. Average 15 feet wide, 8 inches deep.
INT-C	806	linear feet	(a)(2) Intermittent tributary contributes	INT-C flows directly into Fish Creek. Have combined Stream B into this one as it is unclear which leg of the tributary contributes more flow. Perennial call is

<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.	difficult to justify due to the human manipulated nature of some of the flowing water. Otherwise, normal conditions exist. Average 6 feet wide, 6 inches deep.
INT-D	150	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	INT-D flows directly into Fish Creek. Much of the water presence within this channel is likely backwater from Fish Creek. The terrain is very flat. Average 6 feet wide, 4 inches deep.
INT-F	200	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	INT-F flows directly into the large wetland complex (wetland E) that is formed by Fish Creek in the western portion of the property and to the north of this area. INT-D may be a continuation of inundation of Wetland E. INT-F meets some of the definition of a ditch, though it is clearly a relocation of a tributary that can be traced upstream for at least 0.5 miles. Average 3 feet wide, 12 inches deep.

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
Wetland B	0.18	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland B continues off the property and abuts INT-C off-property
Wetland C	1.25	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland C abuts both INT-C and Fish Creek
Wetland D	0.84	acre(s)	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	Visual evidence at the 24 June 2021 site visit clearly showed that floodwater from Fish Creek inundates this wetland. See site report and photos. FEMA DFIRM shows this area as being within the 100-year floodplain for Fish Creek.
Wetland E	4.84	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	This large wetland area (continuing north of the site) actually is Fish Creek.

**D. Excluded Waters or Features**



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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	
Northern Pond	11.61	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).	This area is an abandoned bauxite mine excavated in the 1940s.
Southern Pond	17.86	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).	This area is an abandoned bauxite mine excavated in the 1940s and 1950s, and in the 1990s for fire clay.
Western Pond	0.54	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).	This area is an abandoned bauxite mine excavated in the 1940s and 1950s, and in the 1990s for fire clay.
Stormwater	1.01	acre(s)	(b)(10) Stormwater control feature constructed or	This pond is associated with an NPDES permit and acts as a sedimentation basin.

<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
			excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	
EPH-A	672	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	There is no evidence to suggest that this area flows with anything other than in direct response to precipitation. Average 3 feet wide, 2 inches deep.
EPH-E	70	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	There is no evidence to suggest that this area flows with anything other than in direct response to precipitation. Average 1 foot wide, 3 inches deep.
Wetland A	0.1	acre(s)	(b)(1) Non-adjacent wetland.	This wetland does not meet the definition of an adjacent wetland. It is only connected to a (b)(3) water, which is categorically excluded from jurisdiction.
Wetland F	0.02	acre(s)	(b)(1) Non-adjacent wetland.	This wetland does not meet the definition of an adjacent wetland. It is only connected to a (b)(3) water, which is categorically excluded from jurisdiction.

**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: [Central Arkansas Recycling & Disposal Services USACE Delineation & Approved Jurisdictional Determination Request](#)

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

Rationale: INT-C is being combined with “Perennial Stream B” in the report. Information on the site indicated that flow may be manipulated by human influences (pumping water from Southern Pond to Northern Pond) therefore perennial flow cannot be guaranteed. However, the presence of fish in the stream indicates that there is sufficient evidence that flow is generally present at least seasonally. Wetland D is considered jurisdictional as it meets the definition of an adjacent wetland due to (ii) are inundated by flooding from a water identified in paragraph (a)(1), (2), or (3) of this section. INT-F is considered an intermittent stream rather than ephemeral because visual evidence at the site showed a significant amount of water present in the channel when it had not rained more than a trace in the last 14 days.

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Other: See photographs saved in the electronic file in the “June 24 2021 site visit” folder.](#)
- Corps site visit(s) conducted on: [June 24 2021](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\)](#).



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- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: [Arkansas\\_Soils in ArcMap](#)
- USFWS NWI maps: [Title\(s\) and/or date\(s\).](#)
- USGS topographic maps: [1:24K Little Rock](#)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">N/A.</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">FEMA/FIRM maps</a>	<a href="#">DFIRM accessed 29 June 2021</a>

**B. Typical year assessment(s):** [APT for 22 June 2021 indicates wetter than normal conditions, though it should be noted that this is entirely due to a single weather event which occurred approximately 12 days prior.](#)

**C. Additional comments to support AJD:** [This jurisdictional determination is specific to an approximately 153-acre parcel of land located approximately one-tenth of a mile down Ironton Road from West Dixon Road and borders I-530 on the eastern property line. Fish Creek is a perennial creek that flows west-east through the property and is the jurisdictional connection to the Arkansas River \[\(a\)\(1\) feature\]. Wetlands C and E directly abut Fish Creek. INT-F flows into wetland E. Wetland D is inundated by flooding from Fish Creek. INT-D is a small feature that is largely backwater from Fish Creek. INT-C flows north-south along and off the eastern border of the property until flowing into Fish Creek. Wetland B directly abuts INT-C. Three ponds onsite \(Northern, Southern, and Western\) are relic quarries with no jurisdictional features, while Stormwater is a stormwater control feature that was constructed in uplands and is also non-jurisdictional. EPH-A and EPH-E are non-jurisdictional ephemeral streams. Wetlands A and F have no jurisdictional connection.](#)