



**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): 6/9/2021

ORM Number: SWL-2021-00152

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Arkansas City: Enter. County/Parish/Borough: Faulkner

Center Coordinates of Review Area: Latitude 34.98702 Longitude -92.41949

**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.

**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.

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.

<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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**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
Palustrine forested wetland (W01)	0.01	acre(s)	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories.	A field investigation of the site occurred on April 22, 2021, by Merjent, the project consultant. The wetland is a water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories. Additionally, the wetland is separated from a water of the United States (unnamed tributary of Palarm Creek) by a 6-lane Interstate (I-40) and a two-lane US Highway (Highway 365). Wetland Determination Data Sheets were submitted by the consultant and have been reviewed by USACE project manager. Photographs of the wetland were included within the project submittal. Coordinates 34.98702; -92.41949
Palustrine emergent wetland (W02)	0.04	acre(s)	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories.	A field investigation of the site occurred on April 22, 2021, by Merjent, the project consultant. The wetland is a water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories. Additionally, the wetland is separated from a water of the United States (unnamed tributary of Palarm Creek) by a 6-lane Interstate (I-40) and a two-lane US Highway (Highway 365). Wetland Determination Data Sheets were submitted by the consultant and have been reviewed by USACE project manager. Photographs of the wetland were included within the project submittal. Coordinates 34.98346; -92.41970
Palustrine emergent wetland (W03)	0.03	acre(s)	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories.	A field investigation of the site occurred on April 22, 2021, by Merjent, the project consultant. The wetland is a water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories. Additionally, the wetland is separated from a water of the United States (unnamed tributary of Palarm Creek) by a 6-lane Interstate (I-40) and a two-lane US Highway (Highway 365). Wetland Determination Data Sheets were submitted by

<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
				the consultant and have been reviewed by USACE project manager. Photographs of the wetland were included within the project submittal. Coordinates 34.98276; -92.41976
Palustrine forested wetland (W04)	0.01	acre(s)	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories.	A field investigation of the site occurred on April 22, 2021, by Merjent, the project consultant. The wetland is a water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories. Additionally, the wetland is separated from a water of the United States (unnamed tributary of Palarm Creek) by a 6-lane Interstate (I-40) and a two-lane US Highway (Highway 365). Wetland Determination Data Sheets were submitted by the consultant and have been reviewed by USACE project manager. Photographs of the wetland were included within the project submittal. Coordinates 34.97663; -92.42008
Palustrine forested wetland (W05)	0.18	acre(s)	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories.	A field investigation of the site occurred on April 22, 2021, by Merjent, the project consultant. The wetland is a water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories. Additionally, the wetland is separated from a water of the United States (unnamed tributary of Palarm Creek) by a 6-lane Interstate (I-40) and a two-lane US Highway (Highway 365). Wetland Determination Data Sheets were submitted by the consultant and have been reviewed by USACE project manager. Photographs of the wetland were included within the project submittal. Coordinates 34.97543; -92.42019
Unnamed tributary of Palarm Creek (Lake Conway) (S01)	0.01	acre(s)	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	A field investigation of the site occurred on April 22, 2021, by Merjent, the project consultant. The water has an ephemeral flow and is an excluded water consistent with (b)(1) - (b)(12) criteria. Stream information was submitted by the consultant and has been reviewed by USACE project manager. Photographs of the stream were included within the project submittal.



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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
			Coordinates 34.98743; -92.41947
Unnamed tributary of Palarm Creek (Lake Conway) (S02)	0.01	acre(s)	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.  A field investigation of the site occurred on April 22, 2021, by Merjent, the project consultant. The water has an ephemeral flow and is an excluded water consistent with (b)(1) - (b)(12) criteria. Stream information was submitted by the consultant and has been reviewed by USACE project manager. Photographs of the stream were included within the project submittal. Coordinates 34.98463; -92.41966
Unnamed tributary of Palarm Creek (Lake Conway) (S03)	0.01	acre(s)	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.  A field investigation of the site occurred on April 22, 2021, by Merjent, the project consultant. The water has an ephemeral flow and is an excluded water consistent with (b)(1) - (b)(12) criteria. Stream information was submitted by the consultant and has been reviewed by USACE project manager. Photographs of the stream were included within the project submittal. Coordinates 34.97463; -92.42036

**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: [Project submitted on behalf of the applicant by the consultant, Merjent, Inc., dated May 4, 2021.](#)

This information is sufficient for purposes of this AJD.

Rationale: [The consultant has provided detailed data concerning each water, to include, maps, photographs and data sheets](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial and Other: Information is a part of the applicant's submittal dated May 4, 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: [Faulkner County, Arkansas data provided within the project submittal dated, May 4, 2021](#)
- USFWS NWI maps: [Title\(s\) and/or date\(s\).](#)
- USGS topographic maps: [1:24K – Mayflower](#)

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



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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):** The consultant provided recent precipitation data compared with historic precipitation data from a 30-year dataset (1991-2021) from a nearby WETS weather station (Conway, Arkansas) to determine if normal hydrologic and climatic conditions were present on-site during the delineation. When compared, the observed precipitation data from three months prior to the delineation indicated normal precipitation conditions at the time of delieation.
- C. Additional comments to support AJD:** General site conditions indicated the survey area predominantly consists of maintained roadside right-of-way with scattered wetlands.