



**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 2021-00159

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 36.1767 Longitude -94.2243

**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
N/A.	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.	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.	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
DD-1	147	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).	DD-1 is a manmade feature that exhibits surface water flow only in direct response to precipitation.

**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: [FTN – AJD Request and Delineation report dated 13 May 2021, received by SWL on 25 May 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: FTN – AJD Request and Delineation report dated 13 May 2021; Google Earth accessed 26 May 2021; HistoricAerials.com accessed 26 May 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: [Web Soil Survey accessed on 26 May 2021.](#)
- USFWS NWI maps: [NWI data accessed 26 May 2021.](#)
- USGS topographic maps: [24K, Springdale, AR years 1970, 1994, 2011, 2014, 2017, 2020 accessed online via USGS' TopoView website on 26 May 2021.](#)

**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="#">The National Map (NHD, LiDAR) accessed on 26 May 2021.</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="#">Antecedent Precipitation Tool (APT), Version 1 accessed on 26 May 2021.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">Applicant's agent conducted site visits for wetland and stream delineation purposes on 26 April 2021.</a>

<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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- B. Typical year assessment(s):** APT was accessed for the date corresponding to the FTN site visit for wetland and stream delineation (26 April 2021). Findings were wet season, normal conditions. APT was also accessed for dates of Google Earth imagery; findings: March 2020 wet season, wetter than normal; March 2018 wet season, normal conditions; February 2017 wet season, normal conditions; March 2016 wet season normal conditions; March 2014 wet season, normal conditions; September 2010 dry season, normal conditions; September 2009 dry season, normal conditions; March 2008 wet season normal conditions; September 2006 dry season, normal conditions; January 2006 wet season, drier than normal; December 2004 wet season, normal conditions; August 2003 dry season, drier than normal; February 2001 wet season, wetter than normal. No water was noted within DD-1 or in the areas north or south of it for these dates.
- C. Additional comments to support AJD:** DD-1 is depicted as an unnamed intermittent stream on USGS topographic maps (Springdale, AR) dated 2011, 2014, 2017, and 2020. However it is not depicted on USGS topographic maps (Springdale, AR) dated 1970, or 1994. During a search of historic aerial photographs of the proposed project boundaries this feature is visible in aerial photography dating back to 1968 (HistoricAerials.com) and 1985 in Google Earth. During the review of historic aerial photographs no water was noted within the feature or in the areas north or south of it.

Based on the FTN site visit for wetland and stream delineation report (13 May 2021) and available historical data, this feature meets the B-5 exclusion and is non-jurisdictional.

A feature identified as UD-1 (approximately 0.003 acres) was identified, within the project area, in the FTN site visit for wetland and stream delineation (26 April 2021). UD-1 was described in the report as an upland depression, it was observed to have standing water at the time of the site visit, and having a dominance of hydrophytic vegetation. However, just below the soil surface, gravel (similar to the parking area south of the buildings) was observed. A review of historical aerial photography indicated the potential existence of a wetland, however, no connection to any jurisdictional water was noted in the historical photos. It was also noted during the review at some point between March 2014 and March 2016 (Google Earth) a gravel driveway was constructed over this feature. Although Surface water and hydrophytic vegetation were present and a soil test was not performed to confirm all three requirements for a wetland, this feature would not be jurisdictional due to the lack of surface flow connection to an a(1) – a(4) water.