



**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): 6/1/2021

ORM Number: SWL-2021-00163

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 36.34965 Longitude -94.26561

**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
Ephemeral Stream A	185	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).	Channel is man-made; unmapped by NHD, USGS topographic quadrangle, or aerial photography. Man-made, ephemeral ditch that partially redirects ephemeral flow from Ephemeral Stream B.
Ephemeral Stream B	1180	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Channel is mapped by NHD and USGS topographic quadrangle Centerton, AR. However, channel generally lacks flow and defined bed/banks. A recently constructed detention pond immediately north of road contributes stormwater to channel, causing flow and ponding within northern reach of channel. The flow dissipates toward the center of the subject parcel. Aerial photography from 1994-2020 indicates either no water or ponded water near center of reach (flow or water is not visible in northern or southern portion of reach).
Ephemeral Stream C	325	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Channel is mapped by NHD, although unmapped on USGS topographic quadrangle. Based on consultant field investigation and aerial photography, channel lacked OHWM and lacked flow (at time of site visit and in most aerial photos).
Wetland A (man-made pond)	0.39	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.

<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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**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: [Lindsey Management Company, Inc. Properties – USACE Delineation and AJD Request Kimmel Road dated May 20, 2021 by PMI.](#)

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 \(1994-2020\); Historic Aerials \(historicaerials.com\); PMI wetland delineation \(photos taken April 27, 2021\).](#)

Corps site visit(s) conducted on: [Date\(s\).](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [SWL-2018-00232 \(November 2018\).](#)

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

USDA NRCS Soil Survey: [Soil Survey of Benton County, Arkansas \(1977\); Web Soil Survey, Version 3.4; Soil Map provided by PMI \(May 2021\).](#)

USFWS NWI maps: [Map of NWI features provided by PMI in report dated May 20, 2021; NWI layer accessed via National Regulatory Viewer on May 26, 2021.](#)

USGS topographic maps: [Centerton, AR \(1973, 1982\)](#)

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

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS/WBD/NHD data/maps</a>	<a href="#">The National Map (LiDAR, NHD)</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="#">National Regulatory Viewer (LiDAR, NHD, FEMA flood maps); Antecedent Precipitation Tool (APT), Version 1.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other information (specify)</a>	<a href="#">PMI wetland delineation (May 20, 2021)</a>

**B. Typical year assessment(s):** [APT was accessed for period corresponding to PMI’s field visit on April 27, 2021. Findings; wet season, normal conditions. Period preceding the most recent 30-day assessment was identified as wetter than normal; most recent 30-day period was identified as normal.](#)

**C. Additional comments to support AJD:** [PMI’s wetland delineation identified the channel features and pond as nonjurisdictional. Ephemeral Stream A is a man-made ditch that partially redirects stormwater flow from Ephemeral Stream B; this channel represents a \(b\)\(5\) water. Ephemeral Stream B is mapped by NHD and USGS topographic quadrangle Centerton, AR. Water and flow was observed in the northern portion of the channel reach during PMI’s site visit. However, the reach of flow was attributed to discharge of a recently constructed stormwater retention pond located immediately north of the reach \(connected via a pipe along Kimmel Road\); the channel flows south and dissipates in the southern portion of the subject property. Historic aerial photography doesn’t indicate flow \(or water\) within the reach during a typical year; in addition, an AJD \(SWL-2018-00232\) completed immediately north of the subject property during 2018 did not identify the channel feature. Therefore, the channel represents a \(b\)\(3\) water. Ephemeral Stream B lacked flow during PMI’s site visit, lack a defined bed/bank, and a review of aerial photography indicates this channel does not support flow/water during a typical year. Finally, Wetland A \(a man-made pond with](#)



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an associated wetland fringe), was constructed in uplands and lacks a connection to (a)(1), (a)(2), or (a)(4) waters.