



**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): 6/14/2021

ORM Number: SWL-2021-00181

Associated JDs: N/A.

Review Area Location¹: State/Territory: Arkansas City: Fayetteville County/Parish/Borough: Washington

Center Coordinates of Review Area: Latitude 36.1121 Longitude -94.1831

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)²

§ 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): ³				
(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
Intermittent Stream A	1365	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The channel supports a well-defined bed/bank, flow, and is visible with water/flow on multiple years of aerial photography. The channel is not mapped on historic topographic quadrangles Fayetteville, AR (1959-1998), but is mapped on more recent topographic quadrangle (2014) and by NHD. Based on historic imagery, the channel has been channelized and relocated west of original location. The channel is a tributary to Clabber Creek, then to Clear Creek, to Illinois River, to Arkansas River (a TNW).

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

² 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.

³ 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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

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 A	2.9	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Forested wetland that directly abuts Intermittent Stream A.
Wetland C	0.2	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Forested wetland that directly abuts Intermittent Stream A.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland B	0.2	acre(s)	(b)(1) Non-adjacent wetland.	Forested/emergent wetland surrounded by uplands and lacking adjacency to (a)(1) through (a)(3) waters. Based on historic aerial photography, the feature appears to be man-made, possibly a borrow area or pond constructed in uplands.

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: [Hwy 112 \(40-acre Property\) Huffman and Company, USACE Delineation and JD Request by PMI, dated June 3, 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 \(1994-2020\); photos provided by PMI in wetland delineation report dated June 3, 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: [Soil Survey of Washington County, Arkansas \(1969\); Web Soil Survey; Soil data provided by PMI in delineation report.](#)
- USFWS NWI maps: [NWI maps provided by PMI and accessed via National Regulatory Viewer on June 11, 2021.](#)
- USGS topographic maps: [Fayetteville, AR \(1959, 1977, 1998, 2014\).](#)

⁴ 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.

⁵ 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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

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	The National Map (NHD)
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	National Regulatory Viewer; Antecedent Precipitation Tool (APT), Version 1.
LiDAR data/maps	Accessed via National Regulatory Viewer
FEMA/FIRM maps	Panel 05143C01210F, accessed on June 11, 2021, via National Regulatory Viewer

B. Typical year assessment(s): [APT was accessed for period corresponding to PMI site visit \(May 27, 2021\); findings: wet season, wetter than normal.](#)

C. Additional comments to support AJD: [Intermittent Stream A is reported by PMI as an intermittent channel that flows from north to south in the western portion of the subject property prior to its confluence with Clabber Creek \(a mapped perennial channel\). Historic aerial photography suggests the channel previously flowed southeast through the property, but was channelized and redirected. Field investigations support evidence of flow, well defined bed/banks, and varied stream morphology \(typical of intermittent channels\). In addition, aerial photography indicates the channel regularly supports flow in a typical year. Therefore, the channel would be regulated as an \(a\)\(2\) water under the NWPR. Wetlands A and C, both forested wetlands, directly abut Intermittent Channel A, therefore, both would be regulated as \(a\)\(4\) waters under the NWPR. Finally, Wetland C, most likely the remnant feature of a borrow area or man-made pond, is located in uplands lacking a nexus to \(a\)\(1\) through \(a\)\(4\) waters. Therefore, this feature \(a \(b\)\(1\) water, would not be regulated under the NWPR due to lack of adjacency to regulated waters.](#)