



**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): 6/4/2021

ORM Number: SWL-2021-00164

Associated JDs: N/A.

Review Area Location¹: State/Territory: Arkansas City: Bentonville County/Parish/Borough: Benton

Center Coordinates of Review Area: Latitude 36.31856 Longitude -94.28857

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
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.

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.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
EPH-1	1735	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral channel that directs sheet flow east through subject property. Feature lacks defined bed/banks and was dry at time of consultant field investigation. The channel is mapped by USGS topographic quadrangle and mapped on NHD; however, aerial photography supports field investigation and doesn't show a defined channel or flow in images between 1994-2020.
POND-1	0.75	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.

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: [Request for an Approved Jurisdictional Determination, Barron Road Subdivision, Bentonville, AR by Crafton Tull dated May 13, 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 \(1994-2020\); Crafton Tull wetland delineation \(May 13, 2021\).](#)
- 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 Benton County, Arkansas; Web Soil Survey; soil map provided by Crafton Tull in reported dated May 13, 2021](#)

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.



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- USFWS NWI maps: NWI layer accessed on National Regulatory Viewer (June 3, 2021) and provided by Crafton Tull in report dated May 13, 2021.
- USGS topographic maps: Centerton, AR (1973, 1982, 2014)

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 (accessed for NHD, LiDAR)
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	National Regulatory Viewer (accessed for NWI, LiDAR, and ORM layers); Antecedent Precipitation Tool (APT), Version 1.
State/Local/Tribal Sources	N/A.
Other information (specify)	Historic topographic quadrangles accessed via historicaerials.com

B. Typical year assessment(s): APT was accessed for period corresponding to Crafton Tull's site visit (May 3, 2021); findings: wet season, wetter than normal. The 60-day period nearest the field investigation exhibited above average precipitation.

C. Additional comments to support AJD: Crafton Tull's wetland delineation identifies two features, EPH-1 (an ephemeral channel) and POND-1 (an upland pond). Crafton Tull identified both features as non-jurisdictional, i.e., an ephemeral channel lacking an OHWM and an upland pond. Although EPH-1 is mapped on USGS topographic quadrangle Centerton, AR and by NHD, the channel lacks an OHWM and was dry at the time of Crafton Tull's field investigation (during a wetter than normal period, per APT data). In addition, review of aerial photography further indicates lack of flow and lack of channel definition, supporting the ephemeral determination of the feature. POND-1 is a man-made pond constructed in uplands and represents a (b)(8) water. Therefore, neither feature would be regulated by the Corps under the NWPR.