



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): 24-JUN-2021

ORM Number: SWT-2018-00611

Associated JDs: N/A

Review Area Location<sup>1</sup>:

State/Territory: OK City: County/Parish/Borough: Pontotoc County

Center Coordinates of Review Area: Latitude 34.521065 Longitude -96.622854

**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 independent 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.

<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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**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
FS-01	3700 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Evaluation of Antecedent Precipitation Tool (APT) results, the CC Environmental, waters and wetlands evaluation report, USGS topographic maps, and DigitalGlobe aerial imagery, supports that FS-01 is an ephemeral feature which experiences surface water flowing or pooling only in direct response to precipitation.
PEM1A-01	0.02 acres	(b)(1) Non-adjacent wetland	Evaluation of APT results, the CC Environmental, waters and wetlands evaluation report, USGS topographic maps, and DigitalGlobe aerial imagery, supports that PEM1A-01 does not meet the definition of "adjacent wetlands". PEM1A-01 has no direct hydrologic surface connection to any jurisdictional waters. The wetland is not inundated by flooding from a jurisdictional water in a typical year. The lack of surface connection is not due to a natural barrier (e.g. natural berm or bank) or by an artificial structure.
PUBHh-01	0.93 acres	(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)	Evaluation of APT results, the CC Environmental, waters and wetlands evaluation report, USGS topographic maps, and DigitalGlobe aerial imagery, supports that PUBHh-01 is not an impoundment of a jurisdictional water.
PUBHh-02	0.69 acres	(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)	Evaluation of APT results, the CC Environmental, waters and wetlands evaluation report, USGS topographic maps, and DigitalGlobe aerial imagery, supports that PUBHh-02 is not an impoundment of a jurisdictional water.
PUBHh-03	0.11 acres	(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)	Evaluation of APT results, the CC Environmental, waters and wetlands evaluation report, USGS topographic maps, and DigitalGlobe aerial imagery, supports that PUBHh-03 is not an impoundment of a jurisdictional water.

**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: CC Environmental, LLC, *Potential Jurisdictional Waters and Wetlands Evaluation, Pontotoc Mine, October 26, 2020.* This information is sufficient for purposes of this AJD.

Data sheets prepared by the Corps:

Photographs: DigitalGlobe Aerial Imagery, acquisition date 12 Oct 2020.

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<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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- Corps Site visit(s) conducted on:
- Previous Jurisdictional Determinations (AJDs or PJDs):
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey:
- USFWS NWI maps:
- USGS topographic maps: Harden City, OK 1966 (1:24,000); Fittstown, OK 1967 (1:24,000).

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

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):** APT results were obtained for October 2020, coinciding with the CC Environmental, waters and wetlands evaluation report and the DigitalGlobe aerial imagery; the results ranged from a wetter than normal value of 15 to a normal condition value of 10. Only 01 October 2020, was wetter than normal; the remainder of October 2020 experienced normal conditions for this location. These APT results support that the CC Environmental, waters and wetlands evaluation report and the DigitalGlobe aerial imagery are reflective of normal conditions and that the conclusions discussed are characteristic of a typical year.
- C. Additional comments to support AJD:** The waters discussed above are depicted on the Field Reconnaissance Map included within the CC Environmental, waters and wetlands evaluation report. Areas not specifically identified above which occur within the property boundary for which this approved jurisdictional determination is applicable, as identified on the Field Reconnaissance Map, are characteristic of uplands or non-jurisdictional features. This jurisdictional determination is, in general, a concurrence with the referenced CC Environmental, waters and wetlands evaluation report.

<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.

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