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): 1/22/2021
ORM Number: SWT-2019-00485
Associated JDs: N/A or ORM numbers and identifiers (e.g. HQS-2020-00001-MSW-MITSITE).
Review Area Location[1]: State/Territory: Oklahoma City: Owasso County/Parish/Borough: Rogers
Center Coordinates of Review Area: Latitude 36.27638 Longitude 95.80933

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
R4SB-1	319	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	R4SB-1 is an intermittent tributary which flows into Elm Creek, a perennial tributary to Bird Creek, a Section 10 Navigable Water. R4SB-1 has been altered by past construction activity.
R4SB-2	660	linear feet	(a)(2) Intermittent tributary contributes	R4SB-2 is an intermittent tributary which flows into Elm Creek, a perennial tributary to Bird Creek, a Section 10 Navigable Water.

[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.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
			surface water flow directly or indirectly to an (a)(1) water in a typical year.	
R4SB-3	706	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	R4SB-3 is an intermittent tributary which flows into Elm Creek, a perennial tributary to Bird Creek, a Section 10 Navigable Water. R4SB-3 has been channelized as part of past development.
R2UB-1	1,057	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	R2UB-1 (Elm Creek) is a perennial stream tributary to Bird Creek, a Section 10 Navigable Water.
EDF-1	167	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	EDF-1 is an intermittent tributary which flows into Elm Creek, a perennial tributary to Bird Creek, a Section 10 Navigable Water. EDF-1 has been manipulated by the unauthorized placement of fill upstream into PFO1-1, PEM1-3, and PEM1-4.
EDF-2	338	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	EDF-2 is an intermittent tributary which flows into Elm Creek, a perennial tributary to Bird Creek, a Section 10 Navigable Water. The upstream connection to Elm Creek was severed by construction activity without prior authorization from the Corps.

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
PEM1-1	0.370	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	PEM1-1 directly abuts R4SB-1, a jurisdictional (a)(2) intermittent tributary to Elm Creek.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
PEM1-2	1.744	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	PEM1-2 directly abuts R4SB-2, a jurisdictional (a)(2) intermittent tributary to Elm Creek and is separated from Elm Creek by a single berm created during past construction of a residential development.
PEM1-3	0.208	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.	PEM1-3 has been manipulated by the unauthorized placement of fill material. The unauthorized fill has altered the wetland hydrology and its connection to R2UB-1, though a connection is still present.
PEM1-4	0.180	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	PEM1-4 is directly connected to PFO1-1 and PEM1-3. PEM1-4 has also been manipulated by the unauthorized placement of fill material.
PFO1-1	0.215	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	PFO1-1 is directly connected to PEM1-4 to the north and PEM1-3 to the south. PFO1-1 has been manipulated by the unauthorized placement of fill material.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
PEM1-5	0.055	acre(s)	(b)(1) Non-adjacent wetland.	Depressional features along 86th Street. This area has been manipulated by past construction.
PUB-1	0.016	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	PUB-1 was likely excavated during past construction activity.

[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.

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
PUB-2	0.021	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	PUB-2 was likely excavated during past construction activity.

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: Clean Water Act, Section 404 Nationwide Permit No.14 Preconstruction Notification (PCN) For Proposed Commercial Pad Site Development

This information is sufficient for purposes of this AJD.

Rationale: N/A or describe rationale for insufficiency (including partial insufficiency).

☐ Data sheets prepared by the Corps: Title(s) and/or date(s).

☒ Photographs: Aerial and Other: Google Earth & Digital Globe 1995-2020; Report submitted by Blackbird Environmental December 1 & 21, 2020.

☒ Corps site visit(s) conducted on: January 14, 2021

☐ 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: USDA Web Soil Survey, 19 January 2021

☒ USFWS NWI maps: NWI Wetland Mapper 19 January 2021

☒ USGS topographic maps: USGS 7.5 Minute Collinsville, OK Quadrangle

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS 8, 10, 12 digit HUC maps	110701070405, NHD
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.

Data Source (select)	Name and/or date and other relevant information
Other Sources	N/A.

B. Typical year assessment(s): N/A

C. Additional comments to support AJD: Aerial imagery shows that the review area has been extensively modified by past construction. Construction debris was visible in and around jurisdictional waters of the U.S. during a site visit conducted on January 14, 2021. Aerial imagery shows fill has continuously been placed into jurisdictional wetlands and stream channels and a ditch had been excavated draining jurisdictional waters of the U.S. as part of past construction. The Corps has no evidence of prior authorization for this activity.