



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): 15-JUL-2020

ORM Number: SWT-2019-00564

Associated JDs: N/A

Review Area Location¹:

State/Territory: OK City: Broken Arrow County/Parish/Borough: Tulsa County

Center Coordinates of Review Area: Latitude 35.98775 Longitude -95.84633

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
- 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

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

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
2019-00564, WW-1	600 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Evaluation of Antecedent Precipitation Tool (APT) results, the BEACON Wetland and Waterway Investigation report, on-site observations, discussion with KLH Environmental and Geological Consulting, USGS topographic maps, USDA soil survey information, and Google Earth aerial imagery (1995-2019), supports that WW-1 contributes surface water flow to the Arkansas River in a typical year. The Arkansas River becomes, north of Muskogee, a navigable water subject to Section 10 of the Rivers and Harbors Act of 1899. After sufficient precipitation and groundwater influence, WW-1 flows to IP-1, which flows

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 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.

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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			via an unnamed tributary to Haikey Creek. Haikey Creek flows to the Arkansas River. This surface water flows continuously during certain times of the year and more than in direct response to precipitation.
2019-00564, WW-2	85 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Evaluation of APT results, the BEACON Wetland and Waterway Investigation report, discussion with KLH Environmental and Geological Consulting, USGS topographic maps, USDA soil survey information, and Google Earth aerial imagery (1995-2019), supports that WW-2 contributes surface water flow to the Arkansas River in a typical year. The Arkansas River becomes, north of Muskogee, a navigable water subject to Section 10 of the Rivers and Harbors Act of 1899. After sufficient precipitation and groundwater influence, WW-2 flows via WW-1 to IP-1, which flows via an unnamed tributary to Haikey Creek. Haikey Creek flows to the Arkansas River. This surface water flows continuously during certain times of the year and more than in direct response to precipitation.

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
2019-00564, IP-1	0.85 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Evaluation of APT results, the BEACON Wetland and Waterway Investigation report, on-site observations, discussion with KLH Environmental and Geological Consulting, USGS topographic maps, USDA soil survey information, and Google Earth aerial imagery (1995-2019), supports that IP-1 contributes surface water flow to the Arkansas River in a typical year. The Arkansas River becomes, north of Muskogee, a navigable water subject to Section 10 of the Rivers and Harbors Act of 1899. After sufficient precipitation and groundwater influence, IP-1 flows via an unnamed tributary to Haikey Creek. Haikey Creek flows to the Arkansas River. This surface water flows continuously during certain times of the year and more than in direct response to precipitation. IP-1 is an impoundment of WW-1, which is a jurisdictional intermittent stream (discussed above).
2019-00564, IP-2	0.1 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Evaluation of APT results, the BEACON Wetland and Waterway Investigation report, discussion with KLH Environmental and Geological Consulting, USGS topographic maps, USDA soil survey information, and Google Earth aerial imagery (1995-2019), supports that IP-2 contributes surface water flow to the Arkansas River in a typical year. The Arkansas River becomes, north of Muskogee, a navigable water subject to Section 10 of the Rivers and Harbors Act of 1899. After sufficient precipitation and groundwater influence, IP-2 flows via WW-2 to WW-1 to IP-1, which flows via an unnamed tributary to Haikey Creek. Haikey Creek flows to the Arkansas River. This surface water flows continuously during certain times of the year and more

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			than in direct response to precipitation.
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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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
2019-00564, IP-3	0.1 acres	(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	Evaluation of APT results, the BEACON Wetland and Waterway Investigation report, on-site observations, discussion with KLH Environmental and Geological Consulting, USGS topographic maps, USDA soil survey information, and Google Earth aerial imagery (1995-2019), supports that IP-3 does not contribute surface water flow to the Arkansas River in a typical year. IP-3 is connected to WW-3, and these features are in turn surrounded by uplands, restricting downstream connectivity to non-channelized sheetflow.
2019-00564, WW-3	395 feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	Evaluation of APT results, the BEACON Wetland and Waterway Investigation report, on-site observations, discussion with KLH Environmental and Geological Consulting, USGS topographic maps, USDA soil survey information, and Google Earth aerial imagery (1995-2019), supports that WW-3 does not contribute surface water flow to the Arkansas River in a typical year. WW-3 is connected to IP-3, and these features are in turn surrounded by uplands, restricting downstream connectivity to non-channelized sheetflow.

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: BEACON Environmental Assistance Corporation, *Wetland and Waterway Investigation, Elysian Fields Residential Group, LLC, Tulsa County, Oklahoma*, dated September 2019.

This information, as revised October 17, 2019, is sufficient for purposes of this AJD.

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

Photographs: Site Visit Photographs, February 18, 2020.

Corps Site visit(s) conducted on: February 18, 2020.

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: Web Soil Survey, September 4, 2019.

USFWS NWI maps: Wetlands Mapper, September 4, 2019.

USGS topographic maps: USGS 1:24000-scale Quadrangle for Leonard, OK, 1957.

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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 August 14, 2019, which is the date stamp on the site visit photographs contained within the BEACON Environmental Assistance Corporation, *Wetland and Waterway Investigation, Elysian Fields Residential Group, LLC, Tulsa County, Oklahoma*, dated September 2019; the result was a wetter than normal value of 16. APT results were obtained for February 18, 2020, which is the date USACE conducted a site visit with KLH Environmental and Geological Consulting; the result was a wetter than normal value of 17. APT results were also obtained for February 23, 1995, which is the date of a Google Earth aerial image depicting the flow path from IP-1 to Haikey Creek; the result was a normal value of 12. Evaluation of these APT results, the BEACON Wetland and Waterway Investigation report, on-site observations, discussion with KLH Environmental and Geological Consulting regarding groundwater influence, USGS topographic maps, USDA soil survey information, and multiple years of historical Google Earth aerial imagery (1995-2019), supports that IP-1, WW-1, WW-2, and IP-2 contribute surface water flow to the Arkansas River in a typical year. However, this evaluation also supports that IP-3 and WW-3 do not contribute surface water flow to the Arkansas River in a typical year.
- C. Additional comments to support AJD:** The BEACON Environmental Assistance Corporation, *Wetland and Waterway Investigation, Elysian Fields Residential Group, LLC, Tulsa County, Oklahoma*, dated September 2019, identifies the intermittent flow regime of WW-1, WW-2, and WW-3.

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