



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): 29-OCT-2020

ORM Number: SWT-2019-00021

Associated JDs: SWT-2019-00021 (AJD), May 20, 2019

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

State/Territory: OK City: Claremore County/Parish/Borough: Rogers County

Center Coordinates of Review Area: Latitude 36.295519 Longitude -95.587205

**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
Intermittent Stream (FS-3)	985 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 Eagle Environmental Consulting, Inc., Wetland and Waterway Delineation report, USGS topographic maps, and Google Earth aerial imagery (1995-2020), supports that FS-3 contributes surface water flow to the Verdigris River in a typical year, flowing continuously during certain times of the year and more than in direct response to precipitation. The Verdigris River, near the Port of Catoosa, becomes a navigable water subject to Section 10 of the Rivers and Harbors Act of 1899. After sufficient precipitation and groundwater influence, FS-3 flows (through an on-channel pond) to Dog Creek. Dog Creek flows to the Verdigris River.

<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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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
On-channel Pond (FS-1)	0.2 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 Eagle Environmental Consulting, Inc., Wetland and Waterway Delineation report, USGS topographic maps, and Google Earth aerial imagery (1995-2020), supports that FS-1 contributes surface water flow to the Verdigris River in a typical year. The Verdigris River, near the Port of Catoosa, becomes a navigable water subject to Section 10 of the Rivers and Harbors Act of 1899. After sufficient precipitation, FS-1 flows via an unnamed ephemeral tributary (FS-2) to an unnamed intermittent tributary (FS-3) which continues on (through an on-channel pond) to Dog Creek. Dog Creek flows to the Verdigris River. FS-1 is an impoundment of FS-3, which is a jurisdictional intermittent stream (discussed above).

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))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Ephemeral Stream (FS-2)	366 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Evaluation of APT results, the Eagle Environmental Consulting, Inc., Wetland and Waterway Delineation report, USGS topographic maps, and Google Earth aerial imagery (1995-2020), supports that FS-2 is an ephemeral feature which experiences surface water flowing or pooling only in direct response to precipitation. FS-2 is not identified on the USGS topographic map.

**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: Eagle Environmental Consulting, Inc., *Wetland and Waterway Delineation, Collier Creek Residential Development, Claremore, Rogers County, Oklahoma* (March 2019).  
This information is sufficient for purposes of this AJD.
- Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- Photographs: *(NA, aerial, other, aerial and other) Title(s) and/or date(s)*.
- Corps Site visit(s) conducted on: *Date(s)*.

<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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<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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- Previous Jurisdictional Determinations (AJDs or PJDs): SWT-2019-00021 (AJD), May 20, 2019.
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Title(s) and/or date(s).
- USFWS NWI maps: Title(s) and/or date(s).
- USGS topographic maps: Claremore, OK; 1:24,000 (1963).

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

Data Source (select)	Name and/or date and other relevant information
USGS Sources	HUC number: 110701050104
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 March 2019, as this is the date of the Eagle Environmental Consulting, Inc., Wetland and Waterway Delineation report; the result was a wetter than normal value of 15, for March 01-12, 2020, and a normal value of 13, for March 13-31, 2020. Evaluation of these APT results, the Wetland and Waterway Delineation report, USGS topographic maps, and multiple years of historical Google Earth aerial imagery (1995-2020), supports that FS-3 flows continuously during certain times of the year and more than in direct response to precipitation, contributing surface water to the Verdigris River in a typical year; and, FS-1 contributes surface water flow to the Verdigris River in a typical year. The APT results also support that the ephemeral conditions of FS-2, observed by Eagle Environmental Consulting, were not the result of abnormally dry conditions.
- C. Additional comments to support AJD:** The Eagle Environmental Consulting, Wetland and Waterway Delineation report identifies that FS-1 is an on-channel pond constructed on an intermittent waterway (FS-3), the intermittent flow regime of FS-3, and the ephemeral flow regime of FS-2.

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