



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): 10-NOV-2020

ORM Number: SWT-2020-00332

Associated JDs: N/A

Review Area Location¹:

State/Territory: Oklahoma City: Talala County/Parish/Borough: Rogers County
Center Coordinates of Review Area: Latitude 36.499526 Longitude -95.736792

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

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
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
2020-00332, Open Water	2.98 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	This open water area was constructed as part of mining activities which have permanently ceased at this location. Evaluation of USGS topographic imagery supports that the mining construction occurred within an intermittent stream channel, resulting in the lateral expansion of the intermittent stream channel's ordinary high water mark. Evaluation of USGS topographic

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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			imagery, Google Earth aerial imagery, and Antecedent Precipitation Tool (APT) results, correlating with aerial imagery acquisition dates, supports that the open water area contributes surface water flow, in a typical year, via an unnamed tributary of Fourmile Creek, through Fourmile Creek, to the Verdigris River. Near the Port of Catoosa, the Verdigris River becomes a navigable water subject to Section 10 of the Rivers and Harbors Act of 1899.
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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
2020-00332, Ephemeral Stream-1	421 feet	(b)(3) Ephemeral feature, including an ephemeral stream, sw ale, gully, rill, or pool	Evaluation of APT results, USGS topographic maps, Soil Survey information, National Wetlands Inventory data, and Google Earth aerial imagery (1995-2019), supports that Stream-1 is an ephemeral feature which experiences surface water flowing or pooling only in direct response to precipitation. Stream-1 is not identified on USGS topographic maps.
2020-00332, Ephemeral Stream-2	610 feet	(b)(3) Ephemeral feature, including an ephemeral stream, sw ale, gully, rill, or pool	Evaluation of APT results, USGS topographic maps, Soil Survey information, National Wetlands Inventory data, and Google Earth aerial imagery (1995-2019), supports that Stream-2 is an ephemeral feature which experiences surface water flowing or pooling only in direct response to precipitation. Stream-2 is not identified on USGS topographic maps.
2020-00332, Pond-1	3.59 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 USGS topographic maps, Soil Survey information, National Wetlands Inventory data, and Google Earth aerial imagery (1995-2019), supports that Pond-1 was excavated in uplands and ephemeral waters; and, it is not an impoundment of a jurisdictional water. Pond-1 has no direct hydrologic surface connection to any jurisdictional waters.
2020-00332, Pond-2	0.036 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 USGS topographic maps, Soil Survey information, National Wetlands Inventory data, and Google Earth aerial imagery (1995-2019), supports that Pond-2 was excavated in uplands and ephemeral waters; and, it is not an impoundment of a jurisdictional water. Pond-2 has no direct hydrologic surface connection to any jurisdictional waters.

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.

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- Information submitted by, or on behalf of, the applicant/consultant: Oklahoma Conservation Commission, Williams-Talala Abandoned Mine Land Project, Letter and Map, dated May 26, 2020.
This information *is not* sufficient for purposes of this AJD.
Rationale: The provided National Wetlands Inventory map with a project boundary overlay did not fulfill the level of data or data analysis necessary to complete an AJD.
- Data sheets prepared by the Corps: N/A
- Photographs: Google Earth Aerial Imagery, 1995-2019
- Corps Site visit(s) conducted on: N/A
- Previous Jurisdictional Determinations (AJDs or PJDs): N/A
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Rogers County, OK, Web Soil Survey, accessed Nov. 10, 2020
- USFWS NWI maps: Wetlands Mapper, accessed Nov. 10, 2020
- USGS topographic maps: 1:24,000 Talala, OK, 1970; 1:125,000 Nowata, OK, 1901

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 February 23, 1995 (drier than normal value of 6), March 28, 2010 (normal conditions value of 12), and May 20, 2017 (normal conditions value of 14), coinciding with Google Earth aerial imagery dates. Evaluation of these APT results and Google Earth aerial imagery, supports the ephemeral nature of Stream-1 and Stream-2 and that the open water area contributes surface water flow, in a typical year, via an unnamed tributary of Fourmile Creek, through Fourmile Creek, to the Verdigris River.
- C. Additional comments to support AJD:** The Oklahoma Conservation Commission, Williams-Talala Abandoned Mine Land Project, Letter, dated May 26, 2020, references the abandoned status of the mine site associated with the open water area.

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