



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): 02-DEC-2020

ORM Number: SWT-2020-00344

Associated JDs: N/A

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

State/Territory: OK City: Spencer County/Parish/Borough: Oklahoma County

Center Coordinates of Review Area: Latitude 35.496825 Longitude -97.388838

**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                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------|-----------------|--------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Stream 2    | 746 linear feet | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | The unnamed tributary of Crutcho Creek is indicated on the USGS Topographic Map and USGS NHD as an intermittent stream with an on-channel pond (open water 5) depicted at the headwater that flows approximately another 2,100 linear feet outside the review area to Crutcho Creek. Hydrology is visible in multiple years of satellite imagery as well as from onsite. Beaver activity is active on the stream channel. Crutcho Creek is a tributary of the North Canadian 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 and 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):**

| <b>(a)(3) Name</b> | <b>(a)(3) Size</b> | <b>(a)(3) Criteria</b>                                                                                                                               | <b>Rationale for (a)(3) Determination</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------------------|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Open Water 5       | 0.68 acre(s)       | (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 | The on-channel pond was excavated in the past on the headwater of the unnamed tributary of Crutch Creek (Stream 2) as indicated on the USGS Topographic Map and USGS NHD. The currently existing pond footprint is smaller in area compared to when the two referenced data sources were mapped. The on-channel pond and its hydrological connection to the unnamed tributary of Crutch Creek is visible from multiple years of satellite imagery as well as when viewed from onsite (sediment from upland earthmoving activities eroded into the on-channel pond and visible flowing downstream through the tributary). Beaver activity is active around the open water. |

**Adjacent wetlands ((a)(4) waters):**

| <b>(a)(4) Name</b> | <b>(a)(4) Size</b> | <b>(a)(4) Criteria</b>                      | <b>Rationale for (a)(4) Determination</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------|--------------------|---------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Wetland A          | 0.40 acre(s)       | (a)(4) Wetland abuts an (a)(1)-(a)(3) water | The wetland is visible in multiple years of satellite imagery as well as from the site. It directly south and abutting the on-channel pond of an unnamed tributary of Crutch Creek. The wetland exhibited hydric soils, hydrophytic vegetation, and indicators of hydrology according to the USACE 1987 Wetland Delineation manual and associated Great Plains Regional Supplement. Beaver activity is active around the wetland.                                                                                                                                  |
| Wetland B          | 0.16 acre(s)       | (a)(4) Wetland abuts an (a)(1)-(a)(3) water | The wetland is visible in multiple years of satellite imagery as well as from the site. It is located within the mapped footprint of the on-channel pond depicted on the USGS Topographic Map and NHD. It is directly south of Open Water 5 with a hydrological connection to the unnamed tributary of Crutch Creek. The wetland exhibited hydric soils, hydrophytic vegetation, and indicators of hydrology according to the USACE 1987 Wetland Delineation manual and associated Great Plains Regional Supplement. Beaver activity is active around the wetland. |

**D. Excluded Waters or Features**

**Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:**

| <b>Exclusion Name</b> | <b>Exclusion Size</b> | <b>Exclusion<sup>5</sup></b>                                                                                                                                  | <b>Rationale for Exclusion Determination</b>                                                                                                                                                                                                                                                                         |
|-----------------------|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ditch 1               | 1,973 linear feet     | (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1) | Man-made drainage ditches constructed around the perimeter of the existing landfill that carries runoff for stormwater management of the existing landfill. Ditch 1 is a man-made drainage ditch constructed in uplands, is not a reroute of a tributary, carries only ephemeral flow, and does not exhibit an OHWM. |
| Ditch 2               | 2,346 linear feet     | (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a                                                                                   | Ditch 2 is one of a series of man-made drainage ditches constructed around the perimeter of the existing                                                                                                                                                                                                             |

<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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|--------------|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|              |                   | ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)                                                                                                                        | landfill that carries runoff for stormwater management of the existing landfill. Ditch 2 is a man-made drainage ditch constructed in uplands, is not a reroute of a tributary, carries only ephemeral flow, and does not exhibit an OHWM.                                                                                                          |
| Ditch 3      | 2,132 linear feet | (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)                                            | Ditch 3 is one of a series of man-made drainage ditches constructed around the perimeter of the existing landfill that carries runoff for stormwater management of the existing landfill. Ditch 3 is a man-made drainage ditch constructed in uplands, is not a reroute of a tributary, carries only ephemeral flow, and does not exhibit an OHWM. |
| Ditch 4      | 348 linear feet   | (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)                                            | Ditch 4 is one of a series of man-made drainage ditches constructed around the perimeter of the existing landfill that carries runoff for stormwater management of the existing landfill. Ditch 4 is a man-made drainage ditch constructed in uplands, is not a reroute of a tributary, carries only ephemeral flow, and does not exhibit an OHWM. |
| Ditch 5      | 413 linear feet   | (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)                                            | Ditch 5 is one of a series of man-made drainage ditches constructed around the perimeter of the existing landfill that carries runoff for stormwater management of the existing landfill. Ditch 5 is a man-made drainage ditch constructed in uplands, is not a reroute of a tributary, carries only ephemeral flow, and does not exhibit an OHWM. |
| Ditch 6      | 94 linear feet    | (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)                                            | Ditch 6 is a man-made drainage ditch excavated primarily in uplands incidental to mining. Ditch 6 is not a reroute of a tributary, carries only ephemeral flow, and does not exhibit an OHWM.                                                                                                                                                      |
| Open Water 1 | 0.08 acre(s)      | (b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel | Open Water 1 is a water-filled depression, incidental to construction activities, excavated in uplands that receives diffuse stormwater runoff and directional sheet flow over uplands westward from North Midwest Boulevard. Open Water 1 has no hydrologic connectivity to WOTUS in a typical year.                                              |
| Open Water 2 | 0.65 acre(s)      | (b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff                                          | Open Water 2 is a man-made pond used for stormwater management of the existing landfill. Open Water 2 was excavated in uplands, is isolated, and has no apparent hydrologic connectivity to WOTUS in a typical year.                                                                                                                               |
| Open Water 3 | 0.33 acre(s)      | (b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff                                          | Open Water 3 is a man-made pond used for stormwater management of the existing landfill. Open Water 3 was excavated in uplands, is isolated, and has no apparent hydrologic connectivity to WOTUS in a typical year.                                                                                                                               |
| Open Water 4 | 0.82 acre(s)      | (b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to                                                                                                | Open Water 4 is a man-made pond used for stormwater management of the existing landfill. Open Water 4 was excavated in uplands, is isolated, and has                                                                                                                                                                                               |

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|----------|-------------------|--------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
|          |                   | convey, treat, infiltrate, or store stormwater runoff                                | no apparent hydrologic connectivity to WOTUS in a typical year.                            |
| Stream 1 | 1,359 linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | Stream 1 is an ephemeral stream which has stormwater runoff as the primary source of flow. |

**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: *Title(s) and date(s)*.  
[Delineation of waters of the U.S. and Jurisdictional Determination Report, dated 7 July 2020.](#)  
This information *is not* sufficient for purposes of this AJD.  
Rationale: [Partial insufficiency pertaining to jurisdictional status of Open Water 5, Wetland A & B.](#)
- Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- Photographs: [Google Earth Historical Imagery](#)
- Corps Site visit(s) conducted on: *Date(s)*. [12 November 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: *Title(s) and/or date(s)*.
- USFWS NWI maps: [Accessed 12 November 2020](#)
- USGS topographic maps: [USGS 1:24K Quad – Midwest City](#)

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

| Data Source (select)       | Name and/or date and other relevant information |
|----------------------------|-------------------------------------------------|
| USGS Sources               | <a href="#">USGS NHD</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):** According to the Antecedent Precipitation Tool (APT), the project area was experiencing 'wetter than normal' conditions. Reference Section 4 and Appendix G of the [Delineation of Waters of the U.S. and Jurisdictional Determination Report dated July 7, 2020.](#) The APT for 12 November 2020 indicated normal conditions for the wet season.

**C. Additional comments to support AJD:** [The review area is approximately 163 acres.](#)

[The water denoted as Open Water 5 was classified as, "\(b\)\(10\) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or](#)

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store stormwater runoff,” in the referenced delineation, however, it does not meet this exclusion as past excavation activities occurred on the unnamed tributary of Crutcho Creek and not entirely excavated in the uplands or non-jurisdictional waters.

Additionally, Wetland A and B were classified as, “b)(9) Water-filled depression constructed/excavated in upland/non- jurisdictional water incidental to mining/construction or pit excavated in upland/non- jurisdictional water to obtain fill/sand/gravel,” in the referenced delineation, however, it does not meet this exclusion as past excavation activities occurred on the unnamed tributary of Crutcho Creek and not entirely excavated in the uplands or non-jurisdictional waters.

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