



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-Nov-2020

ORM Number: SWT-2020-00434

Associated JDs: N/A

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

State/Territory: OK City: Cushing County/Parish/Borough: Payne County

Center Coordinates of Review Area: Latitude 36.012671 Longitude -96.754017

**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
2020-00434, Skull Creek	3803 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Evaluation of APT results, the Jacobs Engineering Group wetland and waterway delineation report, USGS topographic maps, and Google Earth aerial imagery (1995-2019), supports that Skull Creek is perennial and contributes surface water flow to the Arkansas River in a typical year. Skull Creek is a tributary to the Cimarron River, which is a tributary to the Arkansas River; near Muskogee, Oklahoma, the Arkansas River becomes a navigable water subject to Section 10 of the Rivers and Harbors Act of 1899.

<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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2020-00434, Tributary 1	1123 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 Jacobs Engineering Group wetland and waterway delineation report, USGS topographic maps, and Google Earth aerial imagery (1995-2019), supports that Tributary 1 is intermittent and contributes surface water flow to the Arkansas River in a typical year. Tributary 1 is a tributary of Skull Creek. Skull Creek is a tributary to the Cimarron River, which is a tributary to the Arkansas River; near Muskogee, Oklahoma, the Arkansas River becomes a navigable water subject to Section 10 of the Rivers and Harbors Act of 1899.
2020-00434, Tributary 2	2441 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 Jacobs Engineering Group wetland and waterway delineation report, USGS topographic maps, and Google Earth aerial imagery (1995-2019), supports that Tributary 2 is intermittent and contributes surface water flow to the Arkansas River in a typical year. Tributary 2 is a tributary of Skull Creek. Skull Creek is a tributary to the Cimarron River, which is a tributary to the Arkansas River; near Muskogee, Oklahoma, the Arkansas River becomes a navigable water subject to Section 10 of the Rivers and Harbors Act of 1899.

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

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

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
2020-00434, Wetland 4	0.89 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Evaluation of the Jacobs Engineering Group wetland and waterway delineation report, USGS topographic maps, and Google Earth aerial imagery (1995-2019), supports that Wetland 4 abuts Tributary 1 and Skull Creek (these streams are discussed above).
2020-00434, Wetland 6	0.59 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Evaluation of the Jacobs Engineering Group wetland and waterway delineation report, USGS topographic maps, and Google Earth aerial imagery (1995-2019), supports that Wetland 6 abuts Tributary 2 (discussed above).

**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
2020-00434, Wetland 1	0.1 acres	(b)(1) Non-adjacent wetland	Evaluation of the Jacobs Engineering Group wetland and waterway delineation report, USGS topographic maps, and Google Earth aerial imagery (1995-2019), supports that Wetland 1 does not meet the definition of "adjacent wetlands". Wetland 1 occurs in a shallow depression within an area where the surface topography had been altered from past remedial

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			activities. Wetland 1 has no direct hydrologic surface connection to any jurisdictional waters.
2020-00434, Wetland 2	0.24 acres	(b)(1) Non-adjacent wetland	Evaluation of the Jacobs Engineering Group wetland and waterway delineation report, USGS topographic maps, and Google Earth aerial imagery (1995-2019), supports that Wetland 2 does not meet the definition of "adjacent wetlands". Wetland 2 occurs in a shallow depression within an area where the surface topography had been altered from past remedial activities. Wetland 2 has no direct hydrologic surface connection to any jurisdictional waters.
2020-00434, Wetland 3	0.05 acres	(b)(1) Non-adjacent wetland	Evaluation of the Jacobs Engineering Group wetland and waterway delineation report, USGS topographic maps, and Google Earth aerial imagery (1995-2019), supports that Wetland 3 does not meet the definition of "adjacent wetlands". Wetland 3 occurs in a shallow depression within an area where the surface topography had been altered from past remedial activities. Wetland 3 has no direct hydrologic surface connection to any jurisdictional waters.
2020-00434, Wetland 5	0.1 acres	(b)(1) Non-adjacent wetland	Evaluation of the Jacobs Engineering Group wetland and waterway delineation report, USGS topographic maps, and Google Earth aerial imagery (1995-2019), supports that Wetland 5 does not meet the definition of "adjacent wetlands". Wetland 5 occurs in a shallow depression within an area where the surface topography had been altered from past remedial activities. Wetland 5 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.

- Information submitted by, or on behalf of, the applicant/consultant: Jacobs Engineering Group, *Supplemental Information Section 404 Permit Application ENG FORM 4345 Former Kerr-McGee/Tronox Refinery Site Cushing, Oklahoma*, dated June 17, 2020. This information is sufficient for purposes of this AJD.
- Data sheets prepared by the Corps: N/A
- Photographs: Google Earth, 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:
- USFWS NWI maps:
- USGS topographic maps: 1:24,000, Yale, Oklahoma (1978) and 1:24,000, Twin Mounds, Oklahoma (1975)

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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 December 4, 2017, coinciding with the Jacobs Engineering Group wetland and waterway delineation report; the result was a normal value of 12. Evaluation of these APT results, the Wetland and Waterway Delineation report, USGS topographic maps, and multiple years of historical Google Earth aerial imagery (1995-2019), supports that Skull Creek is perennial and contributes surface water flow to the Arkansas River in a typical year and that Tributary 1 and Tributary 2 are intermittent and contribute surface water flow to the Arkansas River in a typical year.
- C. Additional comments to support AJD:** The Jacobs Engineering Group wetland and waterway delineation report identifies the perennial flow regime of Skull Creek, the intermittent flow regime of Tributary 1, and the intermittent flow regime of Tributary 2.

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