



**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): 11/18/2020

ORM Number: SWT-2020-00513

Associated JDs: N/A or ORM numbers and identifiers (e.g. HQS-2020-00001-MSW-MITSITE).

Review Area Location¹: State/Territory: Oklahoma City: Claremore County/Parish/Borough: Rogers

Center Coordinates of Review Area: Latitude 36.334084 Longitude -95.623230

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
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
N/A.	N/A.	N/A.	N/A.

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 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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Stream 1	800	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 1 was found to exhibit no more than ephemeral flow due to the APT determination that the August 10, 2020 site visit was conducted during wetter than normal conditions, but the stream did not contain water (flowing or ponded).
Stream 2	400	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 2 was found to exhibit no more than ephemeral flow due to the APT determination that the August 10, 2020 site visit was conducted during wetter than normal conditions, but the stream did not contain water (flowing or ponded).
Pond 1	1	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.	The pond was excavated in the uplands for fill material to build a pad north of the pond location. Please see aerial photo 2016. Additionally, the pond does contribute flow to downstream waters.
Pond 2	.05	acre(s)	(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.	Pond 2 is in an area formed from the overflow from an off-site, upland excavated pond. Additionally, Pond 2 does not contribute flow to downstream waters.
Wetland 1	0.05	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 1 was found not to meet adjacency criteria due to not directly abutting an a(1), a(2), and a(3) water, and not being frequently flooded from an a(1), a(2), or a(3) water in a typical year.

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

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: [Lentic and Lotic Waterbody and Wetland Delineation Study, August 19, 2020](#)

This information is sufficient for purposes of this AJD.

Rationale: [The information includes site visit information from August 10, 2020 and delineation for all waters. Based on the Corps site visit on October 27, 2020, the submitted information appears to reflect the resources found on-site.](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial: Google Earth Full Color Aerial \(](#)
- Corps site visit(s) conducted on: [10-27-2020](#)
- 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: <https://www.fws.gov/wetlands/data/mapper.html>
- USGS topographic maps: [7.5 minute USGS topographic map, 1:24,000, Claremore, OK](#)

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): [The APT determined that the site visit on August 10, 2020 was completed in a wetter than normal time. Since the streams did not contain flowing water during this site visit, the streams were determined to exhibit ephemeral flow.](#)

C. Additional comments to support AJD: [The site was found to contain two ponds \(Pond 1 and Pond 2\), one wetland \(Wetland 1\) and two streams \(Stream 1 and Stream 2\). Pond 1 was identified on 2016 aerial photography as being excavated in the upland to obtain fill material for construction of a pad located directly north of the location of Pond 1. Pond 2 was found to have been formed from runoff from an upland, excavated pond, located on an adjacent property. Stream 1 and Stream 2 were found to exhibit no more than ephemeral flow due to the APT determination that the August 10, 2020 site visit was conducted during wetter than normal conditions, but the streams did not contain water \(flowing or ponded\). Wetland 1 was found not to meet adjacency criteria due to not directly abutting an a\(1\), a\(2\), and a\(3\) water, and not being frequently flooded from an a\(1\), a\(2\), or a\(3\) water in a typical year. Therefore, all of the aquatic resources on-site were determined not to be jurisdictional pursuant to Section 404 of the Clean Water Act.](#)