



**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): 3/24/2021

ORM Number: SWT-2020-00676

Associated JDs: N/A

Review Area Location¹: State/Territory: Oklahoma City: Wainwright County/Parish/Borough: Muskogee

Center Coordinates of Review Area: Latitude 35.634836 Longitude -95.557873

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
- 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.	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.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
S2	336	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Evaluation of USGS topographic maps and Google Earth aerial imagery (1995-2019) in conjunction with the November 12, 2020 site investigation, supports that S2 is an intermittent stream. S2 is an unnamed intermittent tributary of Anderson Creek. Anderson Creek is a tributary to the Dirty Creek, which is a direct and substantial tributary to the Arkansas River (a1). The Arkansas River becomes a navigable water near Muskogee, Oklahoma.

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.



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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
P2	0.108	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.	Evaluation of USGS topographic maps and Google Earth aerial imagery (1995-2019) in conjunction with the November 12, 2020 site investigation, supports that pond P2 is an impoundment of intermittent tributary S1, with flow into S2 (a2 water). S2 is an unnamed intermittent tributary of Anderson Creek. Anderson Creek is a tributary to the Dirty Creek, which is a direct and substantial tributary to the Arkansas River (a1). The Arkansas River becomes a navigable water near Muskogee, Oklahoma.
P3	0.079	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.	Evaluation of USGS topographic maps and Google Earth aerial imagery (1995-2019) in conjunction with the November 12, 2020 site investigation, supports that pond P2 is an impoundment of intermittent tributary S2. S2 is an unnamed intermittent tributary of Anderson Creek. Anderson Creek is a tributary to the Dirty Creek, which is a direct and substantial tributary to the Arkansas River (a1). The Arkansas River becomes a navigable water near Muskogee, Oklahoma.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
W3	0.488	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Evaluation of USGS topographic maps and Google Earth aerial imagery (1995-2019) in conjunction with the November 12, 2020 site investigation, supports that wetland W3 is an emergent wetland that directly abuts intermittent tributary S1 and P2, which flows directly into S2. S2 is an unnamed intermittent tributary of Anderson Creek. Anderson Creek is a tributary to the Dirty Creek, which is a direct and substantial tributary to the Arkansas River (a1). The Arkansas River becomes a navigable water near Muskogee, Oklahoma.
W5	0.121	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Evaluation of USGS topographic maps and Google Earth aerial imagery (1995-2019) in conjunction with the November 12, 2020 site investigation, supports that wetland W5 is an emergent wetland, which abuts S2 and P3. S2 is an unnamed intermittent tributary of Anderson Creek. Anderson Creek is a tributary to the Dirty Creek, which is a direct and substantial tributary to the Arkansas River (a1). The Arkansas River becomes a navigable water near Muskogee, Oklahoma..

D. Excluded Waters or Features



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
S1	628	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	S1 is partially mapped on the USGS topographic quadrangle as the headwaters of a mapped intermittent stream. At the time of the site visit, S1 did not have a continuous ordinary high water mark (OHWM) and was mostly vegetated throughout the lowest portions of the drainage. Evaluation of USGS topographic maps and Google Earth aerial imagery (1995-2019) in conjunction with the November 12, 2020 site investigation, supports that stream S1 is an ephemeral feature which supports surface water flow only in direct response to precipitation.
S3	151	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	S3 is not mapped on the USGS topographic quadrangle. This feature is an overflow drainage from W3 and P2 to S2 and has been impacted by beaver activity. Evaluation of USGS topographic maps and Google Earth aerial imagery (1995-2019) in conjunction with the November 12, 2020 site investigation, supports that stream S1 is an ephemeral feature which supports surface water flow only in direct response to precipitation.
S4	104	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	S4 is not mapped on the USGS topographic quadrangle and was functioning as an ephemeral drainage flowing between W4 and intermittent stream S2. S4 did not exhibit an OHWM. Evaluation of USGS topographic maps and Google Earth aerial imagery in conjunction with the November 12, 2020 site investigation, supports that stream S4 is an ephemeral feature which experiences surface water flow only in direct response to precipitation.
W1	0.038	acre(s)	(b)(1) Non-adjacent wetland.	Evaluation of USGS topographic maps and Google Earth aerial imagery in conjunction with the November 12, 2020 site investigation, supports that W1 hydrology is runoff from upland areas and precipitation. Connectivity to downstream waters was not observed during the site visit and have not been identified on the desktop tools.
W2	0.039	acre(s)	(b)(1) Non-adjacent wetland.	W2 directly abuts S1, an ephemeral stream, is not separated from an a1-3 water by a natural or artificial berm, and is not inundated by flooding

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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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				from an a1-3 water. Evaluation of USGS topographic maps and Google Earth aerial imagery in conjunction with the November 12, 2020 site investigation, supports that W2 is not adjacent to an a1-3 water.
W4	0.014	acre(s)	(b)(1) Non-adjacent wetland.	W4 directly abuts S4, an ephemeral stream, is not separated from an a1-3 water by a natural or artificial berm, and is not inundated by flooding from an a1-3 water. Evaluation of USGS topographic maps and Google Earth aerial imagery in conjunction with the November 12, 2020 site investigation, supports that W4 is not adjacent to an a1-3 water.
P1	0.077	acre(s)	(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 and Google Earth aerial imagery in conjunction with the November 12, 2020 site investigation, supports that P1 is located in an upland area with no observed surface connection directly or indirectly to an (a)(1) water feature. P1 has been determined to be an upland stock tank.

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: [Ed Anthis Delineation Report, November 2020](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).

Photographs: [Other: Title\(s\) and/or date\(s\)](#).

Corps site visit(s) conducted on: [Date\(s\)](#).

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: [ORMII](#)

USGS topographic maps: [ORMII](#)

Other data sources used to aid in this determination:



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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): [N/A](#)

C. Additional comments to support AJD: [N/A](#) or provide additional discussion as appropriate.