



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): 04-AUG-2021

ORM Number: SWT-2020-00689

Associated JDs: N/A

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

State/Territory: OK City: County/Parish/Borough: Mayes County

Center Coordinates of Review Area: Latitude 36.234617 Longitude -95.274059

**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  |
|-------------|-------------|--|---|
| OE-T2       | 205 feet    | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | Evaluation of Antecedent Precipitation Tool (APT) results, the Eagle Environmental Consulting jurisdictional determination request, the Olsson delineation report, and USGS topographic maps supports that OE-T2 is intermittent and contributes surface water flow to the Neosho River in a typical year. OE-T2 flows to Pryor Creek. Pryor Creek is a tributary to the Neosho River. At Fort Gibson Lake Dam, the Neosho 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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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   |
|-------------|-------------|---|--|
| OE-W3       | 0.11 acres  | (a)(4) Wetland abuts an (a)(1)-(a)(3) water | Evaluation of the Eagle Environmental Consulting jurisdictional determination request and the Olsson delineation report supports that OE-W3 meets the definition of "adjacent wetlands", abutting OE-T2. |

**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   |
|----------------|----------------|--|---|
| FS-1           | 0.009 acres    | (b)(1) Non-adjacent wetland  | Evaluation of APT results, the Eagle Environmental Consulting jurisdictional determination request, the Eagle Environmental Consulting delineation report, and USGS topographic maps supports that FS-1 does not meet the definition of "adjacent wetlands". FS-1 has no direct hydrologic surface connection to any jurisdictional waters. The wetland is not inundated by flooding from a jurisdictional water in a typical year. The lack of surface connection is not due to a natural barrier (e.g. natural berm or bank) or by an artificial structure. |
| FS-2           | 148 feet       | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | Evaluation of APT results, the Eagle Environmental Consulting jurisdictional determination request, the Eagle Environmental Consulting delineation report, and USGS topographic maps supports that FS-2 is an ephemeral feature which experiences surface water flowing or pooling only in direct response to precipitation.  |
| FS-3           | 0.07 acres     | (b)(1) Non-adjacent wetland  | Evaluation of APT results, the Eagle Environmental Consulting jurisdictional determination request, the Eagle Environmental Consulting delineation report, and USGS topographic maps supports that FS-3 does not meet the definition of "adjacent wetlands". FS-3 has no direct hydrologic surface connection to any jurisdictional waters. The wetland is not inundated by flooding from a jurisdictional water in a typical year. The lack of surface connection is not due to a natural barrier (e.g. natural berm or bank) or by an artificial structure. |
| OE-T1          | 126 feet       | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | Evaluation of APT results, the Eagle Environmental Consulting jurisdictional determination request, the Olsson delineation report, and USGS topographic maps supports that OE-T1 is an ephemeral feature which experiences surface water flowing or pooling only in direct response to precipitation.   |
| OE-W1          | 0.03 acres     | (b)(1) Non-adjacent wetland  | Evaluation of APT results, the Eagle Environmental Consulting jurisdictional determination request, the Olsson delineation report, and USGS topographic maps  |

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|       |            |                             |   |
|-------|------------|-----------------------------|---|
|       |            |                             | supports that OE-W1 does not meet the definition of "adjacent wetlands". OE-W1 has no direct hydrologic surface connection to any jurisdictional waters. The wetland is not inundated by flooding from a jurisdictional water in a typical year. The lack of surface connection is not due to a natural barrier (e.g. natural berm or bank) or by an artificial structure.  |
| OE-W2 | 0.04 acres | (b)(1) Non-adjacent wetland | Evaluation of APT results, the Eagle Environmental Consulting jurisdictional determination request, the Olsson delineation report, and USGS topographic maps supports that OE-W2 does not meet the definition of "adjacent wetlands". OE-W2 has no direct hydrologic surface connection to any jurisdictional waters. The wetland is not inundated by flooding from a jurisdictional water in a typical year. The lack of surface connection is not due to a natural barrier (e.g. natural berm or bank) or by an artificial structure. |

**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: Eagle Environmental Consulting, *InterPlastic Corporation – Rail Spur Project – Jurisdictional Determination Request*, May 11, 2021; Eagle Environmental Consulting, *Waters of the U.S. Delineation, InterPlastics Corporation Rail Spur Expansion*, April 2021; and, Olsson, *Wetland Delineation and Stream Assessment Report, Interplastic Corporation, Industrial Track Expansion Project*, October 2020.

This information *is* sufficient for purposes of this AJD.

Data sheets prepared by the Corps:

Photographs:

Corps Site visit(s) conducted on: *Date(s)*.

Previous Jurisdictional Determinations (AJDs or PJDs):

Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*

USDA NRCS Soil Survey:

USFWS NWI maps:

USGS topographic maps: Chouteau Quadrangle, Oklahoma – Mayes Co. 7.5 Minute Series, Scale 1:24,000, 1970

**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.  |

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|                            |      |
|----------------------------|------|
| State/Local/Tribal Sources | N/A. |
| Other Sources              | N/A. |

- B. Typical year assessment(s):** APT results were obtained for April 1, 2021 and October 1, 2020, coinciding with the site visits for the Eagle Environmental Consulting delineation report and the Olsson delineation report. The results indicate that conditions were normal during this time.
- C. Additional comments to support AJD:** This jurisdictional determination is, in general, a concurrence with the referenced Eagle Environmental Consulting and Olsson delineation reports.

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