



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-APR-2021

ORM Number: SWT-2020-00083 (Phase 2)

Associated JDs: SWT-2020-00083 (Phase 1)

Review Area Location¹:

State/Territory: OK City: Owasso County/Parish/Borough: Tulsa County

Center Coordinates of Review Area: Latitude 36.255933 Longitude -95.816065

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
FS-6 (Phase 2)	126 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, Waters of the United States delineation report, USGS topographic maps, and Google Earth aerial imagery (1995-2020), supports that FS-6 contributes surface water flow to Bird Creek in a typical year. Bird Creek becomes, north of Catoosa, a navigable water subject to Section 10 of the Rivers and Harbors Act of 1899. FS-6 flows to Elm Creek, which flows to Bird Creek. This surface water flows continuously during certain times of the year and more than in direct response to precipitation.

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 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.

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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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
FS-2 (Phase 2)	0.581 acres	(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 Antecedent Precipitation Tool (APT) results, the Eagle Environmental Consulting, Waters of the United States delineation report, USGS topographic maps, and Google Earth aerial imagery (1995-2020), supports that FS-2 contributes surface water flow to Bird Creek in a typical year. Bird Creek becomes, north of Catoosa, a navigable water subject to Section 10 of the Rivers and Harbors Act of 1899. FS-2 flows to Elm Creek, which flows to Bird Creek. This surface water flows continuously during certain times of the year and more than in direct response to precipitation.

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

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
FS-1 (Phase 2)	0.057 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	FS-1 abuts (i.e., touches) FS-2 (discussed above), as depicted within the Eagle Environmental Consulting, Waters of the United States delineation report.
FS-3 (Phase 2)	0.073 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	FS-3 abuts (i.e., touches) FS-2 (discussed above), as depicted within the Eagle Environmental Consulting, Waters of the United States delineation report.
FS-4 (Phase 2)	0.116 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	FS-4 abuts (i.e., touches) FS-2 (discussed above), as depicted within the Eagle Environmental Consulting, Waters of the United States delineation report.
FS-7 (Phase 2)	0.017 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	FS-7 abuts (i.e., touches) FS-6 (discussed above), as depicted within the Eagle Environmental Consulting, Waters of the United States delineation report.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
FS-5 (Phase 2)	526.3 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	FS-5 is an ephemeral feature which experiences surface water flowing or pooling only in direct response to precipitation.

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.

 x Information submitted by, or on behalf of, the applicant/consultant: Eagle Environmental Consulting, *Waters of the United States Delineations, Proposed Anchor Stone Rock Quarry Phase II Expansion Project, Tulsa County, Oklahoma, October 2020.*

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

 Data sheets prepared by the Corps:

 x Photographs: Google Earth Aerial Images, various dates (1995-2020)

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- Corps Site visit(s) conducted on:
- 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:
- USFWS NWI maps:
- USGS topographic maps: topoView, accessed April 2, 2021

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 21 Oct 2020, which is the sampling date of the Wetland Determination Data Sheets contained within the Eagle Environmental Consulting, Waters of the United States delineation report; the result was a normal value of 10. Evaluation of this APT result, the Eagle Environmental Consulting, Waters of the United States delineation report, USGS topographic maps, and multiple years of historical Google Earth aerial imagery, supports that FS-6 and FS-2 contribute surface water flow to Bird Creek in a typical year.
- C. Additional comments to support AJD:** The Eagle Environmental Consulting, Waters of the United States delineation report identifies the intermittent flow regime of FS-6 and the ephemeral flow regime of FS-5.

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