



**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): 7/2/2021

ORM Number: SWT-2021-00277

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 36.38757 Longitude -95.55703

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 Letic
- 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.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
S1	561 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	1968 Historic aerial imagery shows S1 flowing from P1. S1 is not mapped on topographic maps until 1970, which map the portion of S1 in the project area, in the headwaters of the stream reach. Based on historic aerial photography, historic topographic maps, and field assessment, S1 has been determined to exhibit no more than ephemeral flow.
S2	50 linear feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	S2 is mapped on current topographic maps but was not mapped prior to 1970. S2 is shown on 1968 historic aerial imagery flowing across the northeastern corner of the review area. The portion of S2 that is in the review area is within the headwaters of the stream reach. The area surrounding S2 was cleared in 2019, leaving the remanent waters (portion of S2 and W3), which were delineated and are described in the delineation study, dated April 5,2021. Based on historic aerial photography, historic topographic maps, and field assessment, S2 has been determined to exhibit no more than ephemeral flow.
W1	0.05 acre(s)	(b)(1) Non-adjacent wetland.	W1 is located in an area that has been heavily manipulated. Additionally, W1 is not inundated by an a(1-3) water in a typical year, separated by an a(1-3) water by a natural or artificial barrier, and does not abut and a(1-3) water. Therefore, W1 has been determined to not meet the adjacency definition.
W2	0.06 acre(s)	(b)(1) Non-adjacent wetland.	W2 is located in an area that has been heavily manipulated. Additionally, W2 is not inundated by an a(1-3) water in a typical year, separated by an a(1-3) water by a natural or artificial barrier, and does not abut and a(1-3) water. Therefore, W2 has been determined to not meet the adjacency definition.
W3	0.03 acre(s)	(b)(1) Non-adjacent wetland.	W3 is located in an area that has been heavily manipulated. Additionally, W3 is not inundated by an a(1-3) water in a typical year, separated by an a(1-3) water by a natural or artificial barrier, and does not abut and a(1-3) water. Therefore,

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
				W3 has been determined to not meet the adjacency definition.
W4	0.02	acre(s)	(b)(1) Non-adjacent wetland.	W4 is located in an area that has been heavily manipulated. Additionally, W4 is not inundated by an a(1-3) water in a typical year, separated by an a(1-3) water by a natural or artificial barrier, and does not abut and a(1-3) water. Therefore, W4 has been determined to not meet the adjacency definition.
W5	0.03	acre(s)	(b)(1) Non-adjacent wetland.	W5 is located in an area that has been heavily manipulated. Additionally, W5 is not inundated by an a(1-3) water in a typical year, separated by an a(1-3) water by a natural or artificial barrier, and does not abut and a(1-3) water. Therefore, W5 has been determined to not meet the adjacency definition.
P1	1.00	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).	1968 Historic aerial imagery shows P1 within an area being used for agricultural purposes. P1 is not mapped on topographic maps until 1970, which map P1 within the headwaters of S1. Based on field assessment, and historic aerial photography and topographic maps, P1 has been determined to have been constructed in the upland.
P2	1.60	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).	P2 is located in a historically heavily manipulated area and is not mapped on topographic maps. Therefore, P2 has been determined to have been constructed in the uplands.

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.



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Information submitted by, or on behalf of, the applicant/consultant: “Lentic and Lotic Waterbody and Wetland Delineation Study for Undeveloped 75 acres MOL, West ½ of Section 13, Township 22 North, Range 16 East, Rogers County, Oklahoma”, dated April 5,2021

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: Aerial: 1968,1980, 1995, 2017
- 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; Topoview, <https://ngmdb.usgs.gov/topoview/viewer/#15/36.3847/-95.5581>

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 submitted APT, dated September 2021, indicated that the site visit was conducted during the wet season within normal conditions. Therefore, the streams, which exhibited minimal flow during the field visit, have been determined to contain no more than ephemeral flow.

C. Additional comments to support AJD: N/A