



**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): 8/26/2020
 ORM Number: SPA2020-201
 Associated JDs: N/A
 Review Area Location¹: State/Territory: New Mexico City: Rio Rancho County/Parish/Borough: Sandoval
 Center Coordinates of Review Area: Latitude 35.256869 Longitude -106.632516

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.



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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
Montoyas Arroyo Location 1	3400	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	According to the gauge data from 2015, which the Antecedent Precipitation Tool (APT) lists as incipient wetness, the Montoyas Arroyo recorded 0 days with flow. Additionally, review of the satellite imagery from November 1, 2015 showed that there was no discernable sign of water in the Montoyas. This location was visited on July 24, 2020 and there was no flow or ponding in the channel (See Section III.C below for additional information supporting the jurisdictional determination.
Unnamed Tributary to the Montoyas Arroyo	1600	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	See Rationale for Location 1

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: [2020-201 Gauge Data Flow_summary.pdf submitted 7/14/2020](#)

This information is sufficient for purposes of this AJD.

Rationale: [This information directly shows the amount of flow in the watershed and how flow is only for a few days total each year in response to precipitation events.](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial and Other: 2020-201 Photo Montoyas Arroyo.jpg taken on 7/24/2020, 2020-201 Sate Image 2015-11-01.png](#)
- Corps site visit(s) conducted on: [7/24/2020, 8/21/2020](#)
- 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: [Title\(s\) and/or date\(s\)](#).
- USGS topographic maps: [Loma Machete, NM 2020](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
Other USDA data (specify)	NRCS Ecological site R042XA054NM -description
NOAA Sources	N/A.

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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Data Source (select)	Name and/or date and other relevant information
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	A. Park Williams, Edward R. Cook, Jason E. Smerdon, Benjamin I. Cook, John T. Abatzoglou, Kasey Bolles, Seung H. Baek, Andrew M. Badger, Ben Livneh. 2018. Large Contribution from Anthropogenic Warming to an Wmerging North American Megadrought. Science. Vol. 368 Issue 6488. Pp. 314-318.

B. Typical year assessment(s): The APT results for the review area notes that two site visits were conducted during the dry season and the Drought Index (PDSI) is determined to be characterized as “Incipient Drought” (2020-06). As such, the evaluation of the review area for this AJD has not been conducted during a typical year. Therefore, additional data has been obtained and reviewed to support our jurisdictional determination. This additional data includes results from the APT for a date in 2015, which is listed as representing a year characterized as “Indicipt Wetness”. These results are described in Section III.C below

It is also worth noting that a recent study by Columbia University notes that the Amercian Southwest is experiencing a historic “megadrought” not seen in centuries. In fact, for several western states, including New Mexico, the last twenty years ranks as the second-driest period in the past 1,200 years (A. Park. Williams, 2018).

C. Additional comments to support AJD: The review area for this AJD includes the location of two planned projects by the Southern Sandoval County Arroyo and Flood Control Authority.

Regulator Forrest Luna conducted a site visit on 7/24/2020, which was the day after a 0.25" rainfall in the area, and there was no flowing water or ponding evident in less than 24 hours after this precipitation event (see attached photos). Additionally, the banks and beds of these stream channels were mostly devoid of any vegetation, nor is there a riparian corridor present. The vegetation that is present is dominated by big sagebrush (*Artemisia tridentate*), which is an upland species.

Regualator Forrest Luna conducted a second site visit on 8/21/2020 to take more photos (see attached) there was no water present in the arroyo.

In addition to the field assessment and corresponding documentation, the APT was run for the date of December 1, 2015 (see document 2020-201 APT 2015-12-01.pdf and 2020-201 Satellite Imagery 2015-11-01.PNG). This date was chosen as it falls within the wet season and the Drought Index was listed as “Incipient Wetness”. Furthermore, this date fell between precipitation events in the area that resulted in over 0.5 inches of rainfall. Regardless, upon review of satellite imagery for this date, there is no indication of flow or ponding in these stream channels. Given this data, a major storm event is required to result in discernable flows within these channels. Therefore, these stream channels are determined to be ephemeral.



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According to information provided by the Natural Resources Conservation Service, the review area has an arid climate with distinct seasonal temperature variations and large annual and diurnal temperature changes characteristic of a continental climate. Precipitation averages 8 to 10 inches annually; however, deviations of 4 inches or more from the average are common. Approximately 50% of the precipitation occurs between July and November, which is the dominant growing season of native plants. Summer precipitation is characterized by high-intensity, short-duration rainstorms. Winter precipitation averages less than one-half inch per month, usually in the form of rain.

The predominate soil in the review area is Sheppard loamy fine sand (i.e. approximately 85 percent). It is described as somewhat excessively drained with a depth to restrictive feature of more than 80 inches. It is also characterized as having a low available water capacity and does not flood or pond. A typical profile for this soil consists of 0 to 3 inches of loamy fine sand in the A Horizon, 3 to 27 inches of loamy fine sand in the C1 Horizon, and 27 to 60 inches of loamy fine sand in the C2 Horizon.

Montoyas Location 1

Southern
Sandoval
County
Arroyo
Flood
Control
Authority



- Acquired, Fee Simple
- Acquired, Easement
- Other, <Null>
- Planned Acquisition, <Null>
- SSCAFCA boundary

1 inch = 800 feet



Date: 8/6/2020



Site Visit 08-21-2020

West end of project site of the Montoyas Arroyo looking East



Site Visit 08-21-2020

West end of project site of the Montoyas Arroyo looking at the South Bank.



Site Visit 08-21-2020

East end of project site of the Montoyas Arroyo looking West



Site Visit 08-21-2020

Unnamed tributary to Montoyas Arroyo near intersection with Don Julio road looking West.



Site Visit 08-21-2020

Unnamed tributary to Montoyas Arroyo near intersection with Don Julio road looking West.



Site Visit 07/24/2020

This is the Montoyas arroyo near but not in the project site the day after a 0.25-inch rain event. The location was selected because the original AJD was to encompass the entire length of the Montoyas Arroyos. It was later decided to perform multiple Jurisdictional Determinations on more specific sites where the proposed project is known. The project site was visited on this day with no water present at the project site.