



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): 2-NOV-2020

ORM Number: SPA-2020-00258

Associated JDs: N/A

Review Area Location¹:

State/Territory: NM City: Flora Vista County/Parish/Borough: San Juan County

Center Coordinates of Review Area: Latitude 36.738773 Longitude -108.086468

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 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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Unnamed tributary to San Juan River	0.02 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral Feature

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: *2020-258 Map; 2020-258 Project Description.*

This information is sufficient for purposes of this AJD.

Rationale: *N/A*

Data sheets prepared by the Corps:

☒ Photographs: *2020-258. Imagery – Google Earth 2013, 2015, 2019; On-Site Photographs 2020.*

☒ Corps Site visit(s) conducted on: *28-OCT-2020.*

Previous Jurisdictional Determinations (AJDs or PJDs):

Antecedent Precipitation Tool:

USDA NRCS Soil Survey:

USFWS NWI maps:

USGS topographic maps:

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrography Dataset (2020), WaterWatch (2020)
USDA Sources	N/A.
NOAA Sources	U.S. Drought Monitor (2020)
USACE Sources	National Wetland Plant List (2020)
State/Local/Tribal Sources	N/A.
EPA Sources	The Ecological and Hydrological Significance of Ephemeral and Intermittent Streams in the Arid and Semi-arid American Southwest (2008)
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 Emerging North American Megadrought. <i>Science</i> . Vol. 368 Issue 6488. Pp. 314-318.

B. Typical year assessment(s): Data provided by USGS and NOAA indicates that this region is experiencing *Severe - Extreme Hydrologic Drought* and conditions are expected to persist. A peer reviewed study conducted by Columbia University indicates that the American Southwest is

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experiencing a historic “megadrought” with the last twenty years ranking as the second-driest period in the past 1,200 years (A. Park. Williams, 2018).

- C. Additional comments to support AJD:** The review area is located approximately 8 miles south of Flora Vista, New Mexico, and the applicant has provided a project map identifying the limits of where work would occur. As part of the JD assessment, Google Earth aerial images of the review area dated November 2013, March 2015, and April 2019 were examined and a site visit was conducted in October 2020. None of the images captured active flow events and flow was not observed on the date of the site visit. The arid or semi-arid climate in the southwest experiences low and highly variable precipitation that is driven primarily by convection during the wet months of July and August (EPA, 2008). Vegetation adjacent and within waterways in the area of review were identified using on-site photographs and aerial imagery and consists of sagebrush (*Artemisia tridentata*), juniper (*Juniperus monosperma*), rabbitbrush (*Ericameria nauseosa*), cheatgrass (*Bromus tectorum*), and Russian Thistle (*Salsola tragus*). Unidentified grasses and tumbleweeds were present within the feature upstream and downstream of the review area and are indicative of minimal flow. No riparian vegetation or wetlands were identified within the review area. Based on evaluated data and information provided by the applicant, this reach of the unnamed tributary to the San Juan River is an ephemeral channel.

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