



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): June 3, 2021

ORM Number: SPA-2021-00069

Associated JDs: N/A

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

State/Territory: NM City: Kirtland Air Force Base County/Parish/Borough: Bernalillo County

Center Coordinates of Review Area: Latitude 35.027288 Longitude -106.542673

**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
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

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

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<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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**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
Arroyo-1	300 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The aquatic resource is an ephemeral stream as flows only occur as a result of 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.

Information submitted by, or on behalf of, the applicant/consultant: *Title(s) and date(s)*.

This information *is and is not* sufficient for purposes of this AJD.

Rationale: *Limited information was provided as part of the JD request.*

Data sheets prepared by the Corps: *N/A*

Photographs: *Google Earth aerial photography. Digital Globe aerial photography. Onsite photos.*

Corps Site visit(s) conducted on: *May 19, 2021.*

Previous Jurisdictional Determinations (AJDs or PJDs): *N/A*

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

USDA NRCS Soil Survey: *Custom Soil Resource Report for Bernalillo County and Parts of Sandoval and Valencia Counties, New Mexico. Accessed May 27, 2021.*

USFWS NWI maps: *N/A*

USGS topographic maps: *N/A*

**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	United States Department of Agriculture, Natural Resources Conservation Service. 2006. <i>Land Resource Regions and Major Land Resource Areas of the United States, the Caribbean, and the Pacific Basin</i> . U.S. Department of Agriculture Handbook 296.  USDA, Natural Resources Conservation Service. <i>Ecological Site R042XA057NM Bottomland</i> . Accessed May 27, 2021.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Lichvar, Robert W. & McColley, Shawn M. (2008). U.S. Army Corps of Engineers. <i>A Field Guide to the Identification of the Ordinary High Water (OHWM) in the Arid West Region of Western United States</i> .

**B. Typical year assessment(s):** The Antecedent Precipitation Tool (APT) was used to determine if the site examination was conducted during a climatological “typical year” for the review area. Data was

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gathered from one (1) weather station located approximately 4.22-miles (Albuquerque International Airport) from the review area. Results from the APT note that on the day of the site visit the review area was in the dry season and experiencing severe drought. The APT results indicate that the field visit was conducted during drier than normal conditions for the rolling 30-year period.

- C. Additional comments to support AJD:** The review area encompasses approximately 0.75-acres and contains one (1) identified aquatic resource (i.e. Tijeras Arroyo) that has a connection to the Rio Grande. The review area is found within the 12-digit Hydrologic Unit Code (HUC) boundary of the Middle Tijeras Arroyo (No. 130202030202) within Kirtland Air Force Base, NM. Additionally, the site is located within the Natural Resources Conservation Service's (NRCS) designated Land Resource Region (LRR) D-Western Range and Irrigated Region, specifically, within Major Land Resource Area (MLRA) 42-Southern Desertic Basins, Plains, and Mountains, and categorized as Bottomlands in the NRCS' ecological site description R042XA057NM. The majority of this MLRA is located within the Mexican Highland Section of the Basin and Range Province of the Intermontane Plateaus. Elevations within the MLRA generally range from 2,600 to 8,500 feet. Average annual precipitation in the review area ranges from 8 to 10 inches annually. The majority of precipitation events occur between July and September and occur as high-intensity, convective thunderstorms. Soils within the review area consist primarily of Gila fine sandy loam (GA) and other minor components. The NRCS categorizes this soil type as well drained, runoff class as low, and frequency of flooding as rare to none (none=flooding is not probable, rare=1 to 5 percent chance of flooding in any year).

On May 19, 2021, a site examination was conducted within the review area. At the time of the examination, the Tijeras Arroyo streambed within the review area was dry and mostly devoid of vegetation except within portions of the active floodplain. Vegetation within the active floodplain appeared immature. The arroyo appeared to be composed of mostly sand with small amounts of rock cobble intermixed. Vegetation along the streambank was sparse and included various upland grasses (*poaceae spp./UPL*), Saltbrush (*Atriplex spp./FAC-FACU*), and Black greasewood (*Sarcobatus vermiculatus/FACU*). Riparian vegetation was not observed within the review area. The site did not exhibit signs of recent high or low flows such as, instream dunes (high-intensity flow indicator) and crested ripples (low-intensity flow indicator) [Lichvar & McColley 2008]. Gravel sheets were observed within the review area reach of the Tijeras Arroyo, which is an indicator of reduced flow competence [Lichvar & McColley 2008].

Aerial photographs of the review area were examined using Google Earth. Google Earth aerial photographs dated October 2020, September 2020, March 2020, November 2019, September 2019, October 2018, September 2018, March 2018, February 2018, January 2018, April 2017, March 2017, November 2016, October 2016, April 2016, January 2016, November 2015, May 2015, April 2014, January 2013, November 2012, March 2012, February 2011, November 2009, July 2007, July 2006, April 2006, July 2004, and March 2002 were examined as part of this review. Surface water flow was

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not observed within any of the examined photographs dates. Furthermore, the flow path within a 0.5-mile reach encompassing the review area did not appear to alter its course between the years of 2002 and 2020, suggesting surface flows occur at widely spread intervals or occur at low magnitudes.

Based on the review of aerial imagery and the observations obtained onsite, the Corps has determined the review area reach within the Tijeras Arroyo is ephemeral and only flows as a result of precipitation events. This aquatic resource is categorized as a (b)(3) water defined as “Ephemeral features, including ephemeral streams, swales, gullies, rills, and pools” [33 CFR 328.3 (b)(3)]. In accordance with 33 CFR 328.3 and the June 22, 2020 implementation of the Navigable Water Protection Rule, this aquatic resource does not meet the definition of “Waters of the United States” and, therefore, is not subject to regulation under Section 404 of the Clean Water Act.

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- DESIRED STREAMBED. FLAT CONTINUOUS SLOPE
- BACKFILLED AREA WITH NATIVE/EXCAVATED EARTH
- CONCRETE RUBBLE EMBANKMENT EROSION CONTROL

LENGTH	- WIDTH	- DEPTH
<b>120 FT</b>	<b>110 FT</b>	<b>6 FT</b>