



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): 1-Sep-2020

ORM Number: SPA-2020-00218 (Plexxar Capital, Ltd.)

Associated JDs: N/A

Review Area Location¹:

State/Territory: TX City: El Paso County/Parish/Borough: El Paso County

Center Coordinates of Review Area: Latitude 31.901 Longitude -106.571

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 and 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
SPA-2020-00218	27 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The waterway does not have any connection to a ground water source and upper reaches of the system does not receive runoff from snowpack throughout the year. The only source of flow that the stream system receives is from high intensity precipitation events and runoff from adjacent urban developed storm water facilities. The waterway does not exhibit a riparian corridor and only upland vegetative species were observed.

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: *Kimley-Horn and Associates, INC.*

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

Rationale: *N/A*

Data sheets prepared by the Corps: *Drought monitoring report for Texas (2020).*

Photographs: *Aerial: Sheet. Location Map (Plexxar 27-ac Tract B.); Sheet 2. USGS Topo Map (Plexxar 27-ac Tract B.); Sheet 3. Recent Aerial (Plexxar 27-ac Tract B.).*

Site Photographs: Ephemeral stream within the project area; September 1, 2020.

Corps Site visit(s) conducted on: *September 1, 2020.*

Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s).*

Antecedent Precipitation Tool: *See discussion in Section III.B*

USDA NRCS Soil Survey: *Albuquerque District Regulatory Viewer*

USFWS NWI maps: *Albuquerque District Regulatory Viewer*

USGS topographic maps: *Albuquerque District Regulatory Viewer*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Water Watch (2020).
USDA Sources	Land Resource Regions and Major Land Resource Areas of the United States, the Caribbean, and the Pacific Basin (USDA Handbook 296, issued 2006).
NOAA Sources	U.S. Drought Monitor (2020)

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USACE Sources	National Wetland Plant List (2018)
State/Local/Tribal Sources	Drought monitoring report for Texas (2020)
USDA/NRCS; Digital Globe	USDA/ NRCS Plants Database (2020); Digital Globe, G-EGD/EVWHS aerial imagery (8-10-2020)

- B. Typical year assessment(s):** The Data provided by USGS, USDA, NRCS, and NOAA indicates that the project site falls within an arid region experiencing moderate drought and the conditions are expected to continue. Additionally, the Antecedent Precipitation Tool indicates that this general area is drier than normal. As such, the evaluation of the proposed project site for this AJD has not been conducted during a typical year. Therefore, additional data has been obtained and reviewed to support our jurisdictional determination.
- C. Additional comments to support AJD:** The review area is located within the city limits of El Paso, Texas and is comprised of the geographic boundary of the proposed scope of work, which encompasses approximately 27 acres. It falls within the Chihuahua desert, which has a dry climate with a limited rainy season from midspring to mid-autumn. Review of recent aerial imagery during that timeframe showed no observable indicators of flow. The average annual precipitation falls between 8 to 14 inches, with little winter precipitation, snowfall is minimal to non-existent. Temperatures in this area range from 35 to 40° Celcius (C) (95 to 104°Fahrenheit [F]); and the average annual temperature is 24° C (75° F).

Vegetation in the review area consists predominantly of creosote (*Larrea tridentate*) and Honey mesquite (*Prosopis Mutica*), sparse unidentified upland bunch grasses, and cacti. Soils are well drained, and the water table exceeds 80 inches in depth.

Based on the information provided by the applicant and obtained by the Corps Regulator, the single aquatic feature within the review area is determined to be an ephemeral stream channel.

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Figure 1: Plexxar ~27-acre Tract B., Digital Globe Imagery on August 10, 2020.

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Action number: SPA-2020-00218

Plexxar Capital, Ltd. 27-acre Jurisdictional Determination.

Project Site Photographs



Photo 1: Overlooking stream entry into project area, facing downstream.



Photo 2: Stream entering project area, facing downstream.



Photo 3: Stream exiting project area, facing upstream.