



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): April 29, 2021

ORM Number: SPA-2020-00294-SCO

Associated JDs: N/A

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

State/Territory: CO City: Lamar County/Parish/Borough: Prowers County

Center Coordinates of Review Area: Latitude 38.098087 Longitude -102.565943

**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
AR-E	11743 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	AR-E is a channelized portion of Willow Creek, an intermittent stream and (a)(2) water. Willow Creek is tributary to Clay Creek, a perennial stream and tributary to the Arkansas River. Therefore, AR-E is jurisdictional.

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):

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

<sup>2</sup> 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.

<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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(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
AR-E (Wetland)	8.95 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	AR-E (Wetland) is an adjacent wetland abutting AR-E and categorized as an (a)(4) water. Therefore, AR-E (wetland) is jurisdictional.

**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
AR-A	5717 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	AR-A is an irrigation ditch constructed in uplands and categorized as a (b)(5) water excluded from jurisdiction.
AR-B	7.49 acres	(b)(1) Non-adjacent wetland	AR-B is a non-adjacent wetland and categorized as a (b)(1) water, which is excluded from jurisdiction.
AR-C	5331 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	AR-C is an irrigation ditch constructed in uplands and categorized as a (b)(5) water excluded from jurisdiction.
AR-D	5.31 acres	(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)	AR-D is an artificial irrigation retention pond constructed in uplands and categorized as a (b)(8) water excluded from jurisdiction.

**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: *“Aquatic Resource Delineation Report for West Farm Pit Expansion Project Site: Prowers County, Colorado”*. November 18, 2020.

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: *“Aquatic Resource Delineation Report for West Farm Pit Expansion Project Site: Prowers County, Colorado”*. November 18, 2020

Corps Site visit(s) conducted on: *N/A*

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: *N/A*

USFWS NWI maps: *N/A*

USGS topographic maps: *N/A*

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<sup>2</sup> 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.

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<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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**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 Antecedent Precipitation Tool (APT) was used to determine if the applicant’s field work outlined in the JD report was conducted during a climatological “typical year” for the review area. Data was gathered from six (6) weather stations located approximately 3.5-miles (Lamar), 7.1-miles (Lamar 9.9 E), 5.4-miles (Lamar 4.8 NNW), 6.9-miles (Lamar Municipal AP), 19.9-miles (John Martin Dam), and 23.8-miles (Holly) from the review area. Results from the APT note that on the day of the applicant’s field work the review area was in the dry season and experiencing Extreme 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:** Ecological Resource Consultants, Inc. (ERC) conducted a delineation of the aquatic resources within the review area on November 18, 2020 (see document titled “Aquatic Resource Delineation Report for West Farm Pit Expansion Project Site: Prowers County, Colorado” in Corps file SPA-2020-294). The report includes Corps wetland delineation data sheets. This delineation report was reviewed and referenced as part of this approved jurisdictional determination.

Aquatic Resource (AR)-A and AR-C are a contiguous irrigation ditch constructed in uplands that flow into a retention pond at the eastern extent of AR-C. Flows that enter the retention pond are stored and allowed to evaporate. The western portion of AR-A is located within a segment of the ditch that can be directed to flow into the Arkansas River. Although this portion of AR-A can be directed to the Arkansas River the ditch is artificial and constructed in uplands. AR-A and AR-C are categorized as a (b)(5) waters under 33 CFR 328.3 (b)(5) and, therefore, non-jurisdictional.

Aquatic Resource (AR)-B is a palustrine emergent wetland located immediately south of three (3) constructed holding ponds. The area within the boundary of this identified wetland meet the criteria of a Corps defined wetland based on Corps wetland delineation data sheets that were completed by ERC. However, the wetland is not considered an adjacent wetland as defined by 33 CFR 328.3 (c)(1) and is therefore considered a non-adjacent wetland categorized as a (b)(1) water under 33 CFR 328.3 (b)(1) and, therefore, non-jurisdiction.

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AR-D is an artificial irrigation retention pond constructed in uplands that pulls water via pipe from AR-C. AR-D does not return water to a WOTUS. AR-D is categorized as a (b)(8) water under 33 CFR 328.3 (b)(8) and, therefore, non-jurisdictional.

AR-E is channelized portion (i.e. ditch) of Willow Creek, an intermittent stream, a tributary to Clay Creek, a perennial stream, and tributary to Arkansas River. This portion of Willow Creek contributes surface water flows to Clay Creek in a typical year. Clay Creek contributes surface water flows to the Arkansas River in a typical year. Furthermore, ERC identified wetlands (i.e. AR-E [wetland]) abutting ER-E that meet the criteria of a Corps defined wetland based on Corps wetland delineation data sheets that were completed by ERC. AR-E is categorized as an (a)(2) water under 33 CFR 328.3 (a)(2) and AR-E (wetland) is categorized as an (a)(4) water under 33 CFR 328.3 (a)(4). Therefore, AR-E and AR-E (wetland) are considered jurisdictional waters of the U.S.

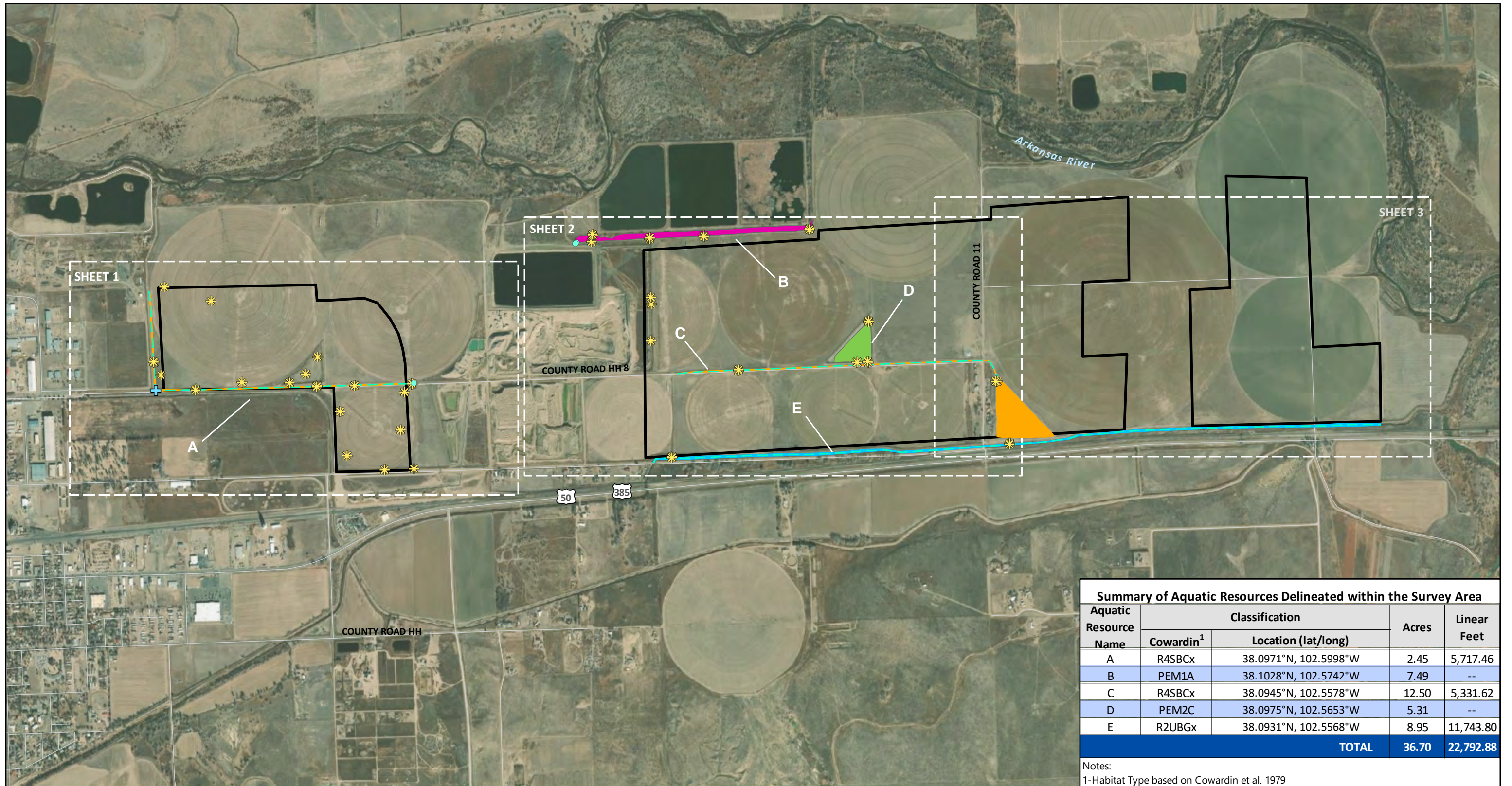
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Summary of Aquatic Resources Delineated within the Survey Area				
Aquatic Resource Name	Classification		Acres	Linear Feet
	Cowardin <sup>1</sup>	Location (lat/long)		
A	R4SBCx	38.0971°N, 102.5998°W	2.45	5,717.46
B	PEM1A	38.1028°N, 102.5742°W	7.49	--
C	R4SBCx	38.0945°N, 102.5578°W	12.50	5,331.62
D	PEM2C	38.0975°N, 102.5653°W	5.31	--
E	R2UBGx	38.0931°N, 102.5568°W	8.95	11,743.80
<b>TOTAL</b>			<b>36.70</b>	<b>22,792.88</b>

Notes:  
1-Habitat Type based on Cowardin et al. 1979

Prepared By:



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ERC #420-2003

**MAP LEGEND**

- Survey Area
- Data Point Location
- Approximate Centerline
- Irrigation Control Valve
- Culvert
- Aquatic Resource Name
- Delineated Aquatic Resource Habitat Type (Cowardin)**
- PEM1A
- PEM2C
- R2UBGx
- R4SBCx

**OVERVIEW  
AQUATIC RESOURCE DELINEATION MAP**

**WEST FARM PIT EXPANSION  
PROWERS COUNTY, COLORADO**

**Date: November 9, 2020**

