



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): 7/28/20

ORM Number: SPA-2020-00172

Associated JDs: N/A

Review Area Location¹:

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

Center Coordinates of Review Area: Latitude 36.129461 Longitude -107.680326

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
Escavada Wash	0.38 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: *2020.172. Application; 2020-172. JD Request*

This information is sufficient for purposes of this AJD.

Rationale: *N/A*

___ Data sheets prepared by the Corps:

☒ Photographs: *Aerial Imagery – Google Earth 2014, 2017; Digital Globe - 2020*

___ Corps Site visit(s) conducted on:

___ 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)

B. Typical year assessment(s): Data provided by USGS and NOAA indicates that this region is experiencing *Moderate to Severe Hydrologic Drought* and conditions are expected to persist.

C. Additional comments to support AJD: The review area is located approximately 10 miles south of the Nageezi Chapter of Navajo Nation within New Mexico, and the applicant has provided a project map identifying the limits of where work would occur. The project area is located on land managed by the Bureau of Land Management, and the arid or semi-arid climate experiences low and highly

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variable precipitation that is driven primarily by convection during the wet months of July and August (EPA, 2008). Vegetation in the area of review were identified using aerial imagery and are predominantly sagebrush (*Artemisia tridentata*), spike dropseed (*Sporobolus contractus*), juniper (*Juniperus monosperma*), and unidentified upland grasses. Based on evaluated data, information provided by the applicant, and in accordance with 33 CFR 328.3 and the June 22, 2020 implementation of the Navigable Waters Protection Rule, this reach of Escavada Wash does not meet the definition of "Waters of the United States" and is not subject to regulation under Section 404 of the Clean Water Act.

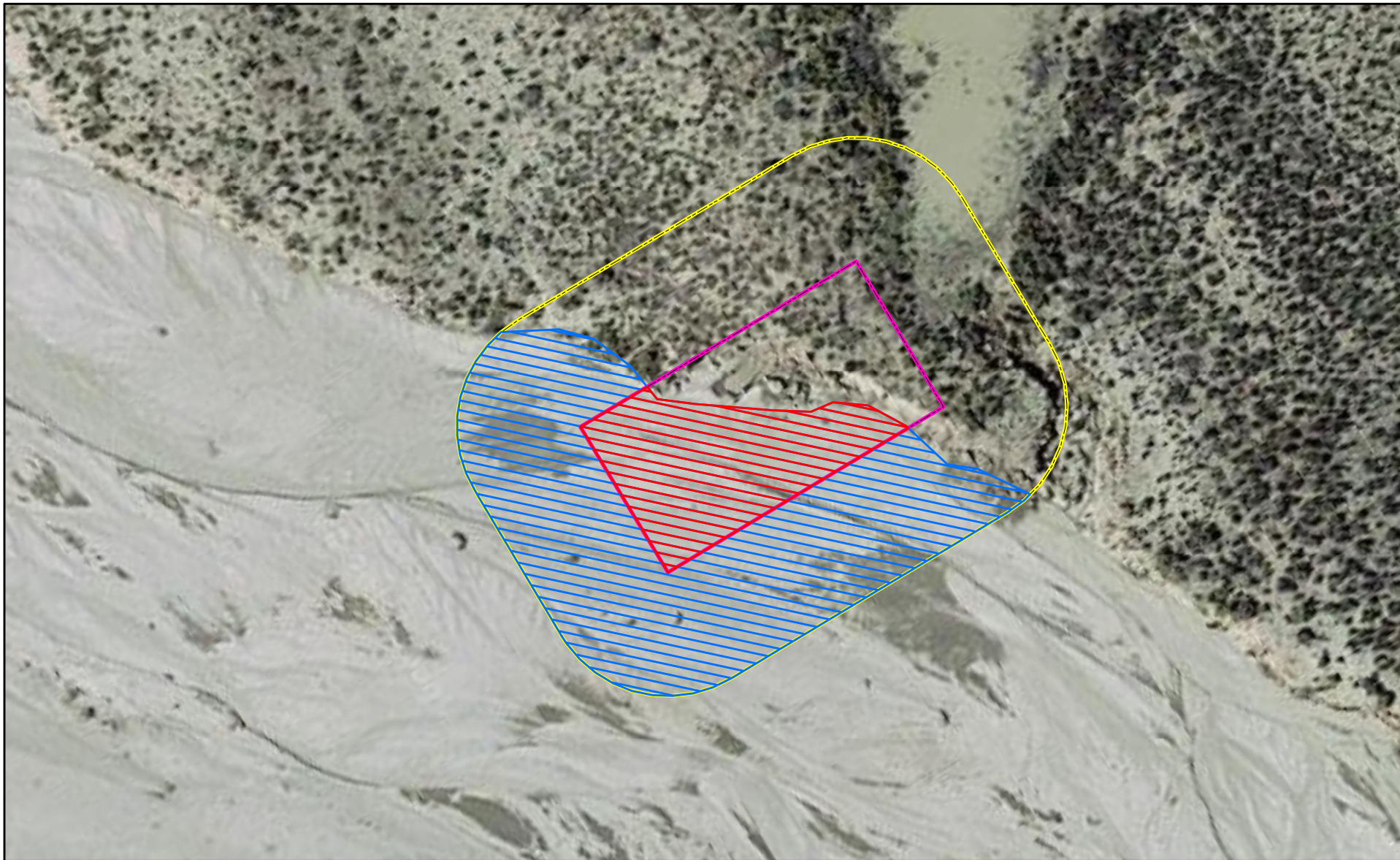
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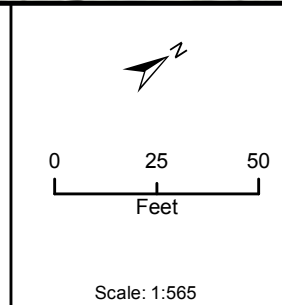
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Legend	
	WUS Active Floodplain Permanent Impacts (0.08 ac.)
	WUS Active Floodplain Temporary Impacts (0.31 ac.)
	Permanent Workspace
	Temporary Workspace





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ENERGY PARTNERS, L.P.



EDGE
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**Kinder Morgan CO2 Company
Cortez Pipeline, Escavada Wash Washout
at MP 135 Repair Project**

Attachment 4
Aerial Photo-based Impacts Maps
San Juan County, New Mexico