



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): 26-AUG-2020

ORM Number: SPA-2020-00191-ABQ

Associated JDs: N/A

Review Area Location¹:

State/Territory: NM City: Vadito County/Parish/Borough: Taos County

Center Coordinates of Review Area: Latitude 36.124725 Longitude -105.649944

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).
- 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
Irrigation Ditch (acequia)	2'x10'	(b)(5)	The irrigation ditch was constructed entirely in uplands.

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: *Parcel Map with NWI overlay*

This information is sufficient for purposes of this AJD.

Rationale: *The map in combination with the site visit is sufficient for this JD.*

Data sheets prepared by the Corps: *Title(s) and/or date(s).*

Photographs: *Onsite photos (7/28/20), Google Earth (2016), Digital Globe (4/27/20)*

Corps Site visit(s) conducted on: *July 28, 2020*

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

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

USDA NRCS Soil Survey: *Gabriel Lopez Property/Dry-land JD (8/11/20)*

USFWS NWI maps: *Parcel Map with overlay*

USGS topographic maps: *Title(s) and/or date(s).*

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 site visit was conducted during a climatological “typical year” for the the review area. Data was gathered from two (2) weather stations located approximately 6.76-miles (Gallegos Peaks weather station) and 9.9-miles (Truchas 1.4 ESE weather station) from the review area. Results from the APT notes that the review area is currently in the dry season and experiencing severe drought. However, the results of the report also indicate that the field visit was conducted during normal conditions for the rolling 30-year period.

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C. Additional comments to support AJD: The review area is approximately 0.19-acres. It is located within the Hydrologic Unit Code (HUC)-12 boundary of the Outlet Rio Santa Barbara (No. 130201010905) in Vadito, Taos County, New Mexico. This area falls within the Natural Resources Conservation Service's (NRCS) designated Land Resource Region (LRR) E-Rocky Mountain Range and Forest Region, specifically within Major Land Resource Area (MLRA) 48A-Southern Rocky Mountains. The MLRA contains various mountain ranges that are dissected by narrow stream valleys with steep gradients. Elevations within the MLRA range from 6,500 to 14,400 feet. Average annual precipitation ranges from 7 to 63 inches, half of which occurs in the form of snow during the winter. Elevation is a major influencing factor in the climate within the MLRA. The NRCS Web Soil Survey indicates the review area contains primarily Loveland clay loam soils, 0 to 3 percent slopes, which are rated as hydric within this region.

An on-site assessment of the review area was conducted on July 28, 2020, which is composed of three (3) sections. These include the driveway footprint, building footprint, and the septic system footprint. Soil sample pits were excavated within the building footprint, the septic system footprint, and the driveway footprint to determine the presence of hydric soils (see map for locations). Six (6) soil sample pits were excavated to a depth of 16 to 20 inches. The soils within each pit did not exhibit characteristics of hydric soils. Hydrology in the form of surface water or a low water table was not observed within the review area or the soil sample pits. Additionally, signs of recent high-water events, such as racking or drift lines, were not observed. Rush plants (*Juncus spp.*) were observed within the septic system area and adjacent to the driveway footprint but were not the dominant plant species. The building foundation footprint is located within an area lacking established vegetation due to grazing, except for a small thicket of Choke cherry trees (*Prunus virginiana*-FACU). Vegetation adjacent to the building footprint appeared to be dominated by Choke cherry saplings (*Prunus virginiana*-FACU), Burr Oak (*Quercus macrocarpa*-FACU), various grass species (*Poaceae spp.*-NI), and a species of fern (*Polypodiopsida sp.*-NI or *Polypodiophyta sp.*-NI). Upland vegetation appeared to be the dominant plant type within each section.

The review area does not contain wetlands exhibiting the three (3) required components (i.e. hydrophytic vegetation, hydric soils, and hydrology); and no riverine features were observed during the site visit (i.e. natural stream channels). A manmade irrigation ditch bisects the northwest portion of the property, which conveys flows below a small area of the driveway footprint via a culvert. This ditch was observed as being dry and completely vegetated during the site examination. Furthermore, this ditch has not been constructed in a tributary, or relocates a tributary; nor is it constructed within an adjacent wetland and satisfies the flow conditions of the tributary definition (i.e., is an (a)(2) water). Neither is it constructed in an adjacent wetland and has developed wetland characteristics (i.e., is an (a)(4) water). As such, this ditch is not a water of the U.S.

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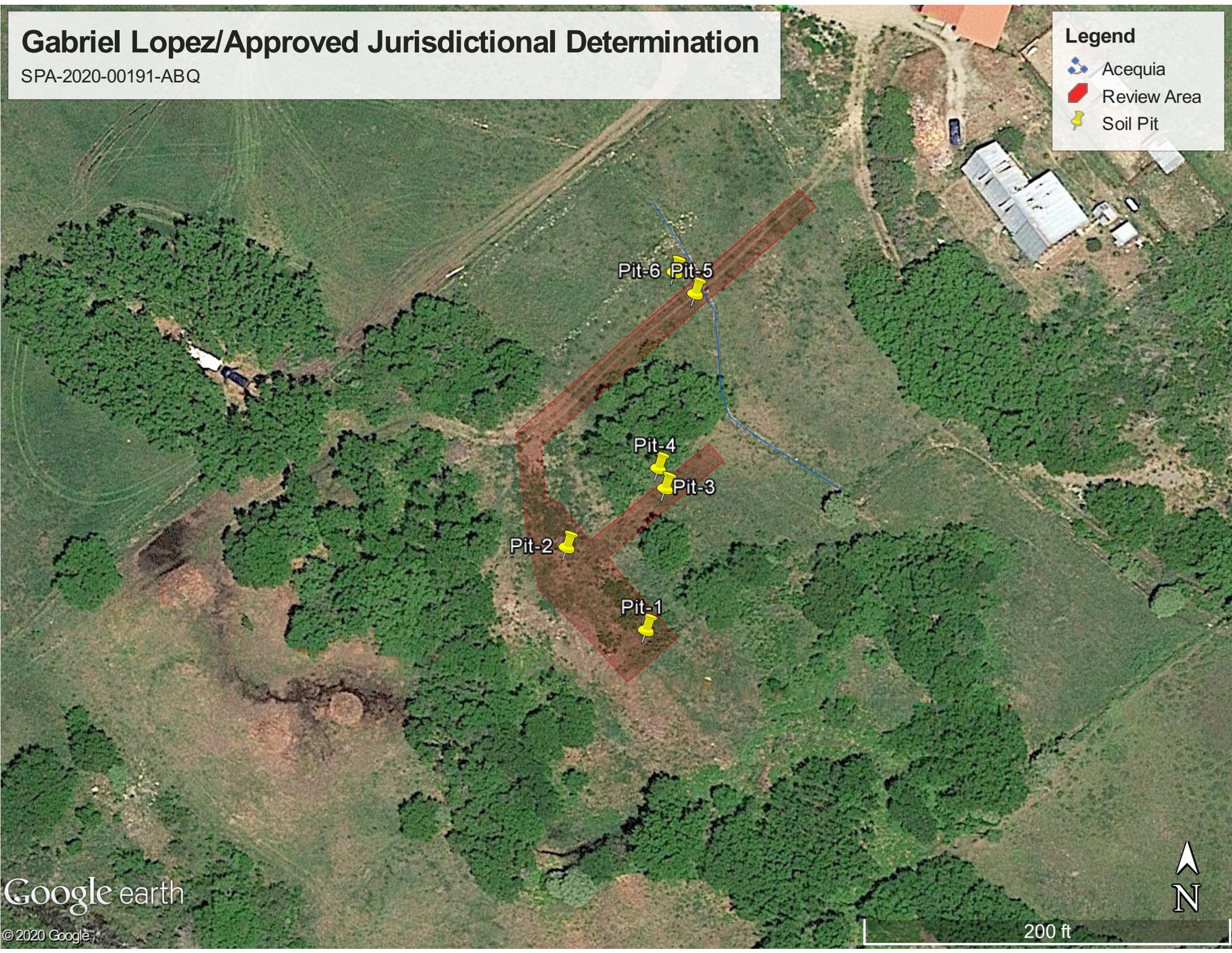
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Gabriel Lopez/Approved Jurisdictional Determination

SPA-2020-00191-ABQ

Legend

-  Acequia
-  Review Area
-  Soil Pit



Pit-6 Pit-5

Pit-4

Pit-3

Pit-2

Pit-1

Google earth

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200 ft