



**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): 12/2/2020

ORM Number: SPA2020-213

Associated JDs: N/A

Review Area Location¹: State/Territory: New Mexico City: Rio Rancho County/Parish/Borough: Sandoval

Center Coordinates of Review Area: Latitude 35.260913 Longitude -106.674466

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 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.



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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
Montoyas Arroyo Location 5	1800	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	See Section III. C below for information supporting the exclusion determination.

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: [2020-213 Gauge Data Flow_summary.pdf submitted 7/14/2020](#)

This information is sufficient for purposes of this AJD.

Rationale: This information directly shows the amount of flow in the watershed and how flow is only for a few days total each year in response to precipitation events.

- Data sheets prepared by the Corps: Title(s) and/or date(s).
- Photographs: Aerial and Other: Title(s) and/or date(s).
- Corps site visit(s) conducted on: 7/24/2020. 11/23/2020
- 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: August 10, 2020
- USFWS NWI maps: Title(s) and/or date(s).
- USGS topographic maps: Loma Machete, NM 2020

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
Other USDA data (specify)	N/A.NRCS Ecological site R042XA054NM - Deep Sand
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	A. Park Williams, Edward R. Cook, Jason E. Smerdon, Benjamin I. Cook, John T. Abatzoglou, Kasey Bolles, Seung H. Baek, Andrew M. Badger, Ben Livneh. 2018. Large Contribution from Anthropogenic Warming to an Emerging North American Megadrought. Science. Vol. 368 Issue 6488. Pp. 314-318.

B. Typical year assessment(s): According to the Antecedent Precipitation Tool (APT), July through October is the time of year with the most precipitation over a 30-year rolling period for the review area; and the monsoon season occurs between mid-June and the end of September. However,

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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regarding the date of the site visit on July 24, 2020, the APT results noted that it was conducted during the dry season, and the Drought Index (PDSI) is listed as “Incipient Drought” (2020-06). As this information did not definitively determine whether or not the field assessment was conducted during a typical year, additional data has been obtained and reviewed to support our jurisdictional determination. This information is provided below under Section III.C.

It is also worth noting that a recent study by Columbia University notes that the American Southwest is experiencing a historic “megadrought” not seen in centuries. In fact, for several western states, including New Mexico, the last twenty years ranks as the second-driest period in the past 1,200 years (A. Park. Williams, 2018). Based on this data, it seems reasonable that in New Mexico a typical year within the 30 year rolling period is characterized by drought conditions—even severe drought conditions.

- C. Additional comments to support AJD:** The review area for this AJD includes the location of two planned project by the Southern Sandoval County Arroyo and Flood Control Authority.

According to information provided by the Natural Resources Conservation Service, the review area has an arid climate with distinct seasonal temperature variations and large annual and diurnal temperature changes characteristic of a continental climate. Precipitation averages 8 to 10 inches annually; however, deviations of 4 inches or more from the average are common. Approximately 50 percent of the precipitation occurs between July and November, which is the dominant growing season of native plants. Summer precipitation is characterized by high-intensity, short-duration rainstorms. Winter precipitation averages less than one-half inch per month, usually in the form of rain.

The predominate soil type present in the review area is Shepard (85 percent). This soil is described as somewhat excessively drained, with a depth to restrictive feature of more than 80 inches and a depth to water table of more than 80. The soil is also characterized as having a low available water capacity and does not flood or pond. A typical profile for this soil consists of 0 to 5 inches of loamy fine sand in the A horizon and 5 to 60 inches of loamy fine sand in the C horizon.

In addition to the field assessment, the APT was run for the following additional dates in conjunction with reviewing satellite imagery of the review area: January 17, 2013, May 22, 2017, November 1, 2015, and October 25, 2018 (see document 2020-213 APT 2013-01-17.pdf, 2020-213 APT 2017-05-22.pdf, 2020-213 APT 2015-11-01.pdf, 2020-213 APT 2018-10-25.pdf, 2020-213 Satellite Imagery 2013-01-17.PNG, 2020-213 Satellite image 2017-05-22.pdf, 2020-213 Satellite Imagery 2015-11-01.PNG, and 2020-213 Satellite image 2018-10-25.pdf). The date of January 17, 2013 was selected because it is the year with the most precipitation according to the gauge data provided, the date is within the wet season and there is available satellite imagery. May 22, 2017 was selected because it is the year with the second most days of recorded flow in the arroyo with available satellite imagery. November 1, 2015 and October 25, 2018 were selected because the satellite imagery for those dates show moister in the arroyo, there is no



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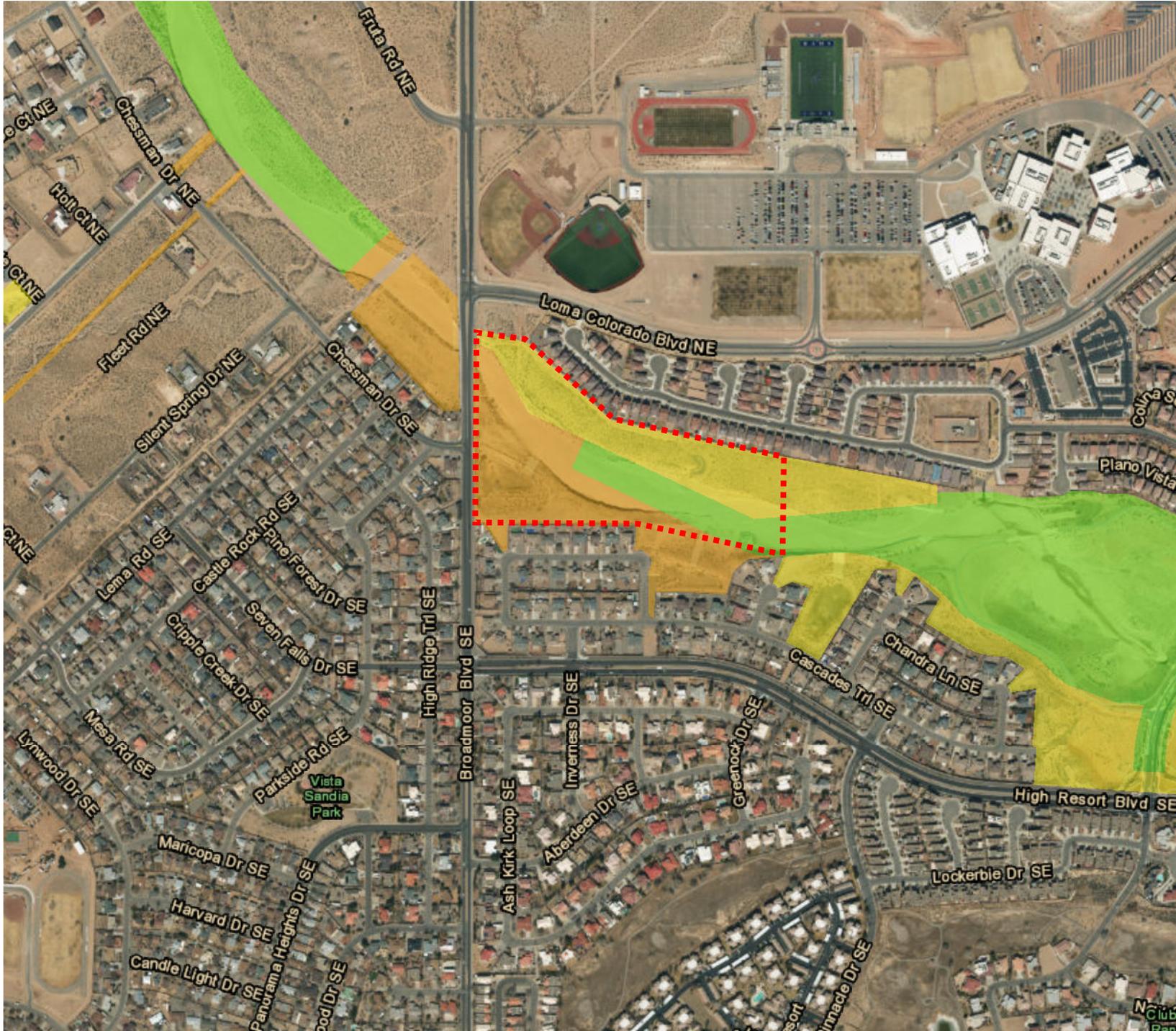
indication of surface flow. November 1, 2015 is approximately 2 weeks after an approximately $\frac{3}{4}$ inch precipitation event. October 25, 2018 is within a few days of a precipitation event of over 1 inch. In both cases the arroyo looks wet, but there is no presence of flowing water or pools within the arroyo.

A field assessment of the review area was conducted on July 24, 2020, which was the day after a 0.25 inch rainfall in the area. However, no surface water was observed in the stream channel. Additionally, the banks and bed of the stream channel are mostly devoid of any vegetation, nor is there a riparian corridor present. The vegetation observed is typical high desert plant community. A second site visit was conducted on November 23, 2020 and no flow or indications of recent hydrology was observed (see attached photos).

Based on the information provided herein, it has been determined that the stream channel comprising the review area only experiences flows in response to rain events and, therefore, is ephemeral.

Location 5 - Montoyas

Southern
Sandoval
County
Arroyo
Flood
Control
Authority



- Acquired, Fee Simple
- Acquired, Easement
- Other, <Null>
- Planned Acquisition, <Null>
- SSCAFCA boundary

1 inch = 800 feet



Date: 7/10/2020



Montoyas Arroyo Location 5 site visit 11-24-2020

Midpoint of project location looking East.



Montoyas Arroyo Location 5 site visit 11-24-2020

Midpoint of project location looking Northwest