



**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): 12/8/2020

ORM Number: SPA2020-214

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 35.324438 Longitude -106.621413

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
Venada Arroyo Location 3	6300 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: [2020-214 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. 8/23/2020
- 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)	NRCS Ecological site R042XA052NM - Loamy 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

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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area; and the monsoon season occurs between mid-June and the end of September. However, 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 one 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.

There are two predominate soil types present in the review area: Grieta (55 percent) and Sheppard (40 percent). The Grieta soil is described as well drained with a depth to restrictive feature of more than 80 inches and a depth to water table greater than 80 inches. The soil is also characterized as having a moderate water capacity and does not flood or pond. A typical profile for this soil consists of 0 to 7 inches of loamy fine sand in the A Horizon, 7 to 14 inches of sandy clay loam in the Bt1 Horizon, 14 to 21 inches of sandy clay loam in the Bt2 Horizon and 21 to 60 inches of coarse sandy loam in the Bk Horizon. The other soil identified in the NRCS soils report is Sheppard. 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.

The applicant also provided gauge data from several points within the same 8-digit Hydrologic Unit Code (HUC 13020203) where the Venada Arroyo is located. The data for the Venada arroyo covered 9 years and showed flows occurred in the channel for a maximum of 104.4 hours during



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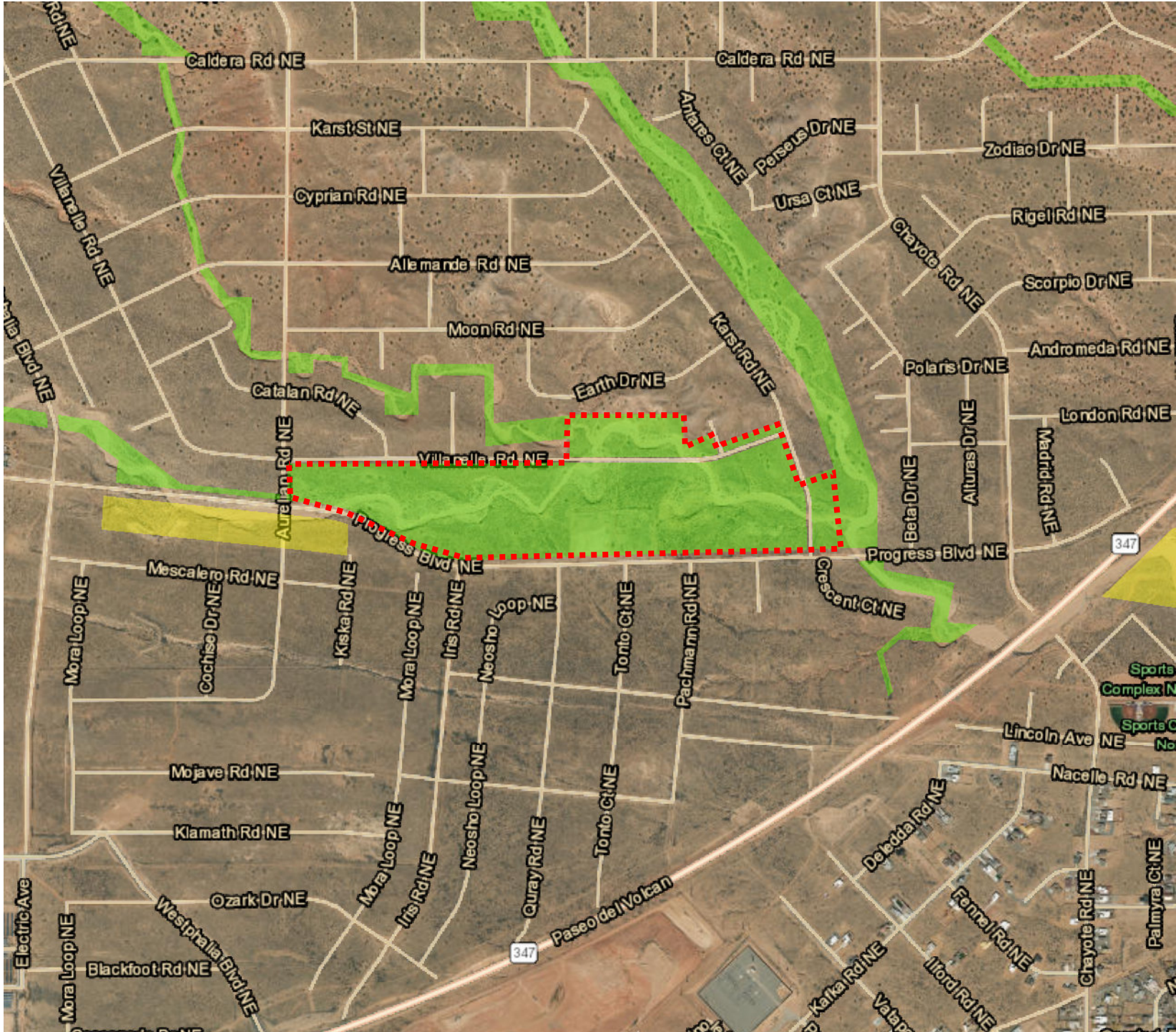
the entire year with 5 separate days of recorded flow during 2019. The year with the second highest amount of flow was for only 53.6 hours during the entire year with 9 separate days of recorded flow during 2013, and in 6 of the years the stream channel experienced less than 9.5 hours of flow with a maximum of 5 days of recorded flow during the year. Other similar aquatic features in the area only recorded flow from 0 to 7 days with a maximum of 81.4 hours total flow per year over the 11 years of data provided.

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: November 1, 2015 and January 17, 2013 (see document 2020-214 APT 2015-11-01.pdf, 2020-214 APT 2013-01-17.pdf, 2020-214 Satellite Image 2015-11-01.PNG and 2020-214 Satellite image 2013-01-17.pdf). The date of November 1, 2015 was selected because it is the closest date to the wet season with satellite imagery available and the Drought Index was listed as "Normal". Further, 2015 is the second wettest year based on the number of days of flow provided in the gauge data. There were also 3 precipitation events during the two previous weeks, one event was for over 1 inch of precipitation. The date of January 17, 2013 was chosen as it fell within the wet season during the year with the highest number of days of recorded flow as determined by the gauge data provided. Upon review of satellite imagery for these dates, no surface water or indication of recent flows were observed in the stream channel for either of these dates. As such, and in consideration of the other information provided above, it has been determined that the stream channel comprising the review area only experiences flows in response to rain events and, therefore, is ephemeral.

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.

Venada Location 3 map

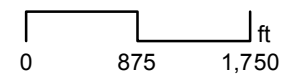


Southern
Sandoval
County
Arroyo
Flood
Control
Authority



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

1 inch = 1500 feet



Date: 7/13/2020



Venada Arroyo Location 3 site visit 11-24-2020

West end of the project site looking East.



Venada Arroyo Location 3 site visit 11-24-2020

Approximately midpoint of the project site looking East. Arroyo is in the left part of the photo the sandy area in the foreground is a result of OHV.



Venada Arroyo Location 3 site visit 11-24-2020

East end of project site looking west.