



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): February 16, 2021

ORM Number: SPA-2020-00237-ABQ

Associated JDs: N/A

Review Area Location¹:

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

Center Coordinates of Review Area: Latitude 36.132658 Longitude -105.660459

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
Wetland-A	5 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The wetland meets all three (3) criteria of a Corps defined wetland and directly abuts an (a)(2) water, the

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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			Rio Santa Barbara, a perennial river and tributary to the Rio Grande.
Wetland-B	5 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The wetland meets all three (3) criteria of a Corps defined wetland and directly abuts an (a)(2) water, the Rio Santa Barbara, a perennial river and tributary to the Rio Grande.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Pond-1	0.03 acres	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year	Artificially constructed pond that receives flow from a tributary, via an irrigation ditch, but does not return flow to the tributary or a TNW
Pond-2	0.03 acres	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year	Artificially constructed pond that captures flow from a low water table and does not discharge flow into a tributary or TNW.
Pond-3	0.02 acres	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year	Natural depression that captures and ponds flow from a low water table and does not discharge into a tributary or TNW.
Pond-4	0.06 acres	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year	Artificially constructed pond that captures flow from a low water table and does not discharge into a tributary or TNW.

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: *Wetland Delineation (October 15, 2020)*. This information is sufficient for purposes of this AJD.
- Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- Photographs: *Google Earth imagery, January 26, 2021. Site visit photographs (9/18/20)*.
- Corps Site visit(s) conducted on: *September 18, 2020*.
- Previous Jurisdictional Determinations (AJDs or PJDs): *N/A*
- Antecedent Precipitation Tool: *Detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: *NRCS-Taos County and Parts of Rio Arriba and Mora Counties, New Mexico (Sanchez Property Soils). Accessed October 13, 2020.*

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- USFWS NWI maps: *Accessed October 6, 2020.*
 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	United States Department of Agriculture, Natural Resources Conservation Service. 2006. Land Resource Regions and Major Land Resource Areas of the United States, the Caribbean, and the Pacific Basin. U.S. Department of Agriculture Handbook 296. United States Department of Agriculture, Natural Resources Conservation Service. Ecological site R036XB006NM-Loamy. Accessed January 21, 2021. United States Department of Agriculture, Natural Resources Conservation Service. Ecological site R036XB008NM-Meadow. Accessed January 21, 2021.
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 review area. Data was gathered from six (6) weather stations located approximately 20.4-miles (GASCON), 9.8-miles (Truchas 1.4 ESE), 4.9-miles (CHAMISAL 1.0 ESE), 7.2-miles (Tres Ritos), 15.9-miles (CHACON 2 S), and 6.8-miles (Gallegos Peak) from the review area. Results from the APT note that the review area is currently in the dry season and experiencing extreme drought. The 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:** The review area is approximately 15-acres and is located within the 12-digit Hydrologic Unit Code (HUC) boundary of the Outlet Rio Santa Barbara (No. 130201010905). This area is found within the Natural Resources Conservation Service’s (NRCS) designated Land Resource Region (LRR) D-Western Range and Irrigated Areas, specifically within Major Land Resource Area (MLRA) 36-Southwestern Plateaus, Mesas, and Foothills. The MLRA is generally located in canyon lands and extends marginally into the Southern Rocky Mountain Province (NRCS 2006). Elevations within the MLRA range from 4,600 to 8,500 feet and certain small portions of the region can reach elevations of 9,300 feet. Average annual precipitation ranges from 10 to 16 inches with about 25 to 35 percent occurring in the form of snow during the winter. 65 to 75 percent of total precipitation occurs in the form of rain typically between April and November. “Wide yearly and seasonal fluctuations are common for this climatic zone” (NRCS 2006). The NRCS Web Soil Survey indicates the review area is composed entirely of Loveland clay loam soils, 0 to 3 percent slopes, which are rated as hydric within this region and are considered poorly drained.

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A site examination of the review area was conducted on September 18, 2020. During the site visit, the majority of the property exhibited visibly moist soils and shallow surface water, with specific areas having floating vegetative mats indicative of a fen. Two (2) irrigation ditches (i.e. Sanchez Ditch and Molino Ditch) divert water from the adjacent Rio Santa Barbara to portions of the property along the western boundary. The ditches had active flows during the site visit. Irrigation water originating from these ditches did not appear to be the only factor influencing surface water within the rest of the site. Three (3) spring fed ponds located along the eastern portion of the property and groundwater upwelling throughout the property appeared to be additional factors influencing surface water. Vegetation within the site appeared to be disturbed due to livestock grazing.

The applicant conducted a wetland delineation of the review area on September 26, 2020 and October 2, 2020. A report outlining the findings of the delineation was submitted as part of the AJD request (see Corps file SPA-2020-00237). The wetland delineation submitted by the applicant indicate groundwater flows appear to be originating from a regional aquifer which flows northeast to southwest through the review area. Additionally, Ponds 2-4 are not physically connected to the ditches yet exhibit surface water year-around. Furthermore, the report noted the existence of fens within unidentified portions of the review area. The wetland delineation report concluded that 10 of the 15 acres within the review area meet the three (3) criteria of a Corps defined wetland (see map). Based on the review of the delineation report, an examination of aerial photographs of the site, and the onsite examination, Wetland A and B are considered Corps jurisdictional wetlands.

Ponds 1-4 were reviewed to determine their jurisdictional status. Pond-1 is an artificial pond that bisects the Sanchez Ditch. Flows from the Pond-1 continue north within the irrigation ditch and are dispersed within the eastern portion of the review area. Ponds 2 and 4 are artificial ponds, while Pond 3 is a natural depression which ponds water; all located within Wetland A. A majority of flow from Ponds 2-4 appear to be retained onsite, with a portion flowing offsite and dispersing into sheet flow within the adjacent property. Based on 33 CFR 328.3 (b)(1), Ponds 1-4 are excluded aquatic features and are non-jurisdictional.

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Figure 1. Sanchez Property
Area of Interest

Wetland Delineated Areas Within the AOI

Sanchez Property

Legend

Wetland





Figure 7. Pond and Headgate Locations