



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): 20-Jan-2021

ORM Number: SPA-2020-00284

Associated JDs: N/A or ORM numbers and identifiers (e.g. HQS-2020-00001-MSW-MITSITE)

Review Area Location<sup>1</sup>:

State/Territory: NM City: N/A County/Parish/Borough: Sierra County & Valencia County

Center Coordinates of Review Area: Latitude 34.457082 Longitude -106.504325

**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)<sup>2</sup>**

§ 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)<sup>3</sup>

(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

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**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
2020-284 Abo Arroyo	1700 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: *Jacobs Engineering Group, Inc.* This information is sufficient for purposes of this AJD.  
Rationale: *N/A*
- Data sheets prepared by the Corps: *National Wetland Plants List (2018).*
- Photographs: *Aerial: designated project area and stream imagery. Site Photographs: images of ephemeral stream as seen at ground level.*
- Corps Site visit(s) conducted on: *Date(s).*
- 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: *USDA/NRCS Web Soil Survey.*
- USFWS NWI maps: *Albuquerque District Regulatory Viewer.*
- USGS topographic maps: *GIS-ArcMap; USA Topo Maps 2013.*

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Water Watch (2020); New Mexico 7-Day average stream flow compared to historical streamflow for the day of the year (12-6-2020); New Mexico real-time stream flow compared to historical streamflow for the day of the year (12-7-2020).
USDA Sources	Land Resource Regions and Major Land Resource Areas of the United States, the Caribbean, and the Pacific Basin (USDA Handbook 296, issued 2006, pp 1-669)
NOAA Sources	U.S. Drought Monitor (2020)
USACE Sources	National Wetland Plant List (2018)
State/Local/Tribal Sources	U.S. Drought Monitor Report for New Mexico (12-1-2020)
USDA/NRCS	USDA/NRCS Web Soil Survey; USDA/ NRCS Plants Database (2020)
Other	Digital Globe, G-EGD/EVWHS aerial imagery (11-11-2020); GIS-ArcMap; National Geographic Society, 2013 (USA Topo Maps) (Figure 3);
Other	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, <i>Large Contribution from Anthropogenic Warming to an Wmerging North American Megadrought.</i> Science. Vol. 368 Issue 6488. Pp. 314-318.
Other	Griffith, G.E., Omernik, J.M., McGraw, M.M., Jacobi, G.Z., Canavan, C.M., Schrader, T.S., Mercer, D., Hill, R., and Moran, B.C., 2006, <i>Ecoregions of New Mexico (color poster with map, descriptive text, summary tables, and photographs)</i> : Reston, Virginia, U.S. Geological Survey (map scale 1:1,400,000).

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- B. Typical year assessment(s):** According to the Antecedent Precipitation Tool (APT), July through September 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, regarding the date of aerial imagery on October 17, 2020, the APT was conducted during the dry season, and the Drought Index (PDSI) is listed as “Moderate Drought” (2020-08). For the 30 days Antecedent Condition Calculation ending on October 17, 2020, the 30th percentile of the 30-year normal range of precipitation is approximately 0.58 inches; however, the observed measurement was 0 inches. Additionally, the APT indicates that this general area is experiencing drier than normal conditions due to drought. Therefore, additional data has been obtained and reviewed to support our jurisdictional determination.

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).

- C. Additional comments to support AJD:** The review area for this AJD consists of approximately 1,500 linear feet of Abo Arroyo and encompasses the location of one planned project by BNSF Railway.

The review area is located within the Albuquerque Basin ecological region just west of the Manzano Mountain range—and more specifically within the Conifer Woodlands and Savannas ecological region (Griffin G.E. 2006). This location is also within the Central New Mexico Highlands land resource area (USDA Handbook 296, issued 2006). This general area has a relatively dry climate with rain primarily limited to the summer in the form of high intensity convective storm events. The average annual precipitation for this area is between 11 to 15 inches, with little winter precipitation; and snowfall is minimal. Ground water resides more than 80 inches below the surface. The average annual temperatures in this area range from 46 to 60° Fahrenheit (F) (8 to 16° Celcius [C]). Predominate soil types in the review area are indicative of three map units: Puertecito, moist-rock out crop complex, 15-60 percent (%) slopes (PU), Salas very stony loam, 30-70% slopes (SA); and Sedillo very gravelly loam, 3-9% slopes (SG). The units are identified based on the area’s taxonomic classification of dominant soils, which are provided below.

- PU includes an estimated 45% Puertecito, a 20% rock out crop, and approximately 35% minor components or similar soils. Soils can be found in landforms identified as Hills, or Mountain slopes (e.g. backslopes, foot slopes, or shoulders). The PU soil profile includes an upper horizon between 0-2 inches consisting of a very stony loam, a mid-horizon between 2-14 inches consisting of a very channery clay loam structure, and a lower horizon between 14-60 inches consisting of bed rock. The soil is characterized as having high infiltration rates and does not have the potential to pond or flood.

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- SA includes an estimated 70% of Salas or similar soils, a 15% rock out crop, and approximately 15% minor components. Soils can be found in landforms identified as escarpments and hills. The SA soil profile includes an upper horizon between 0-6 inches consisting of a very stony loam, a mid-horizon between 6-39 inches consisting of a very gravelly clay loam structure and a lower horizon between 39-43 inches consisting of bed rock. The soil is characterized as having high infiltration rates and does not have the potential to pond or flood.
- SG includes an estimated 85% of Sedillo or similar soils and 15% minor components. Soils can be found in landforms identified as hillslopes (e.g. side slopes). The SG soil profile includes an upper horizon between 0-3 inches consisting of a very gravelly loam, a mid-horizon between 3-23 inches consisting of a very gravelly clay loam, and a lower horizon between 23-60 inches consisting of a very gravelly sandy loam. The soil is characterized as having high infiltration rates and does not have the potential to pond or flood.

Vegetation in the review area consists of upland species. These include Bigelow sage (*Artemisia bigelovii*), Pinyon-juniper, Broomweed (*Amphiachyris*), and Prickly-pear (family: Cactaceae). Grass species consist of Needle Grama (*Bouteloua aristidoides*), Little blue stem (*Schizachyrium Nees*), and other Grama grass varieties.

Abo Arroyo originates on the western flank of the Manzano Mountains to the southeast of the review area. From this point, the stream channel extends northwest to the review area, and then west-northwest to its confluence with the Rio Grande, which is located between the communities of Bosque to the north and Veguita to the south. Within the review area, the average width of the channel measures approximately 40 feet and varies in depth between 1 to 10 feet; and it does not have any connection to springs or other subsurface water within the review area. It also does not exhibit a riparian corridor within the review area.

Satellite imagery and site photos provided by the applicant's consultant show no surface water or flow in the stream channel. The APT was also run for the date of October 17, 2020 in conjunction with reviewing aerial imagery (see document 2020-284 APT 2020-10-17 and Figure 2 provided below). The APT data coincides with the aerial imagery taken on October 17, 2020, which shows that no flows or ponding was evident in the channel. Additional aerial imagery was taken on July 10, 2019 and September 29, 2019 for incipient wetness indicated by the APT (see Figures 3-5 below). APT data indicates that the most moisture over a 30 day rolling total was received in the review area between the months of July to September of this year and that this information can be applied to the previous year in order to assess indicators of flow. The aerial images taken on the aforementioned dates in 2019 show no observable indicators of flow.

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Real-time stream gage data on December 6 and 7, 2020 was also reviewed as part of this AJD: Gage Number 08332010 is located on the Rio Grande downstream of its intersection with the Abo Arroyo; and Gage Number 08331510 is located upstream of their confluence. It is worth noting that there was no significant difference in flows within the Rio Grande between these two gages on those dates.

Based on the data provided by the applicant's consultant and obtained by Regulatory Division personnel, the waterway within the review area has been determined to be an ephemeral stream channel. As such, and in accordance with 33 CFR 328.3 and the June 22, 2020 implementation of the Navigable Waters Protection Rule, it does not meet the definition of "Waters of the United States" and, therefore, is not subject to regulation under Section 404 of the Clean Water Act.



(Figure 1) BNSF Railway ~1,500 linear foot project study area.

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(Figure 2) BNSF Railway ~1,500 linear foot project study area; Digital Globe satellite imagery; October 17, 2020.

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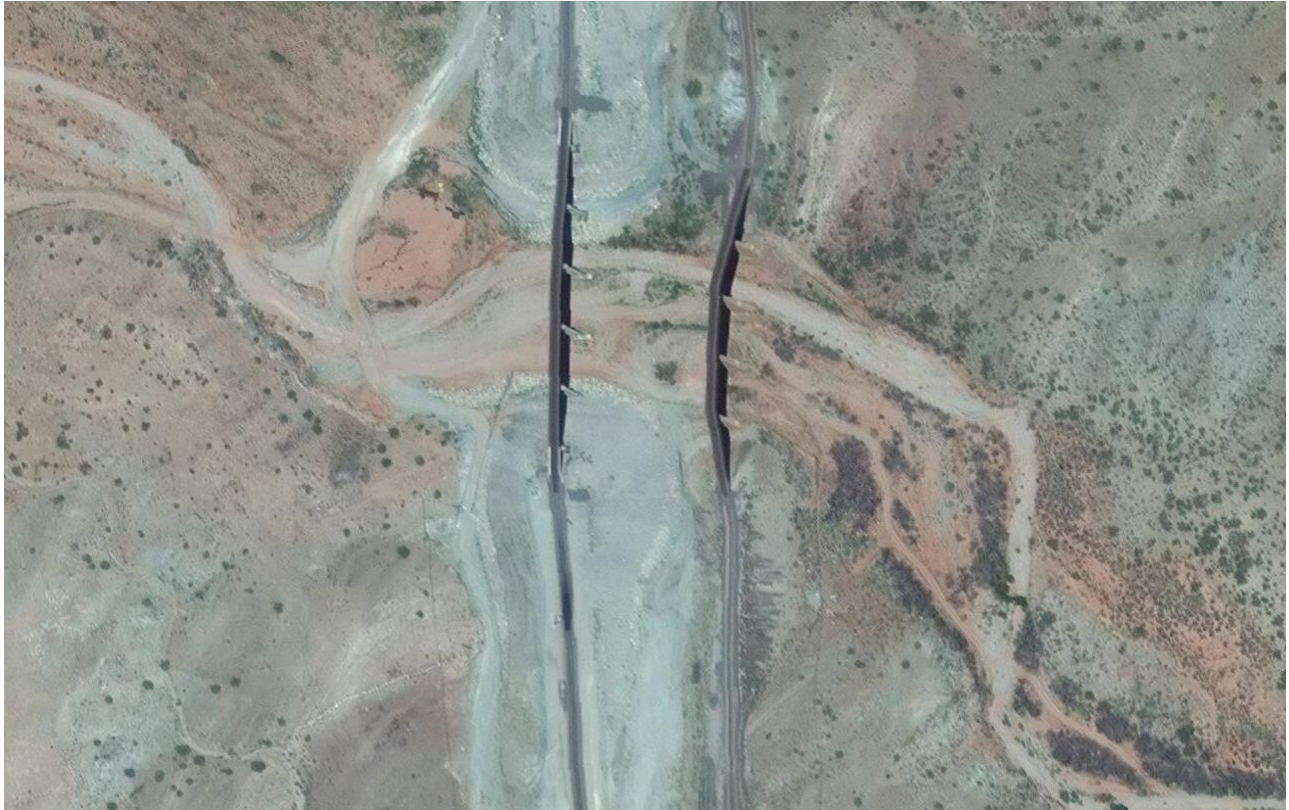
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(Figure 3) BNSF Railway ~1,500 linear foot project study area; Digital Globe satellite imagery; July 10, 2019.

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(Figure 4) BNSF Railway ~1,500 linear foot project study area; Digital Globe satellite imagery; September 29, 2019.

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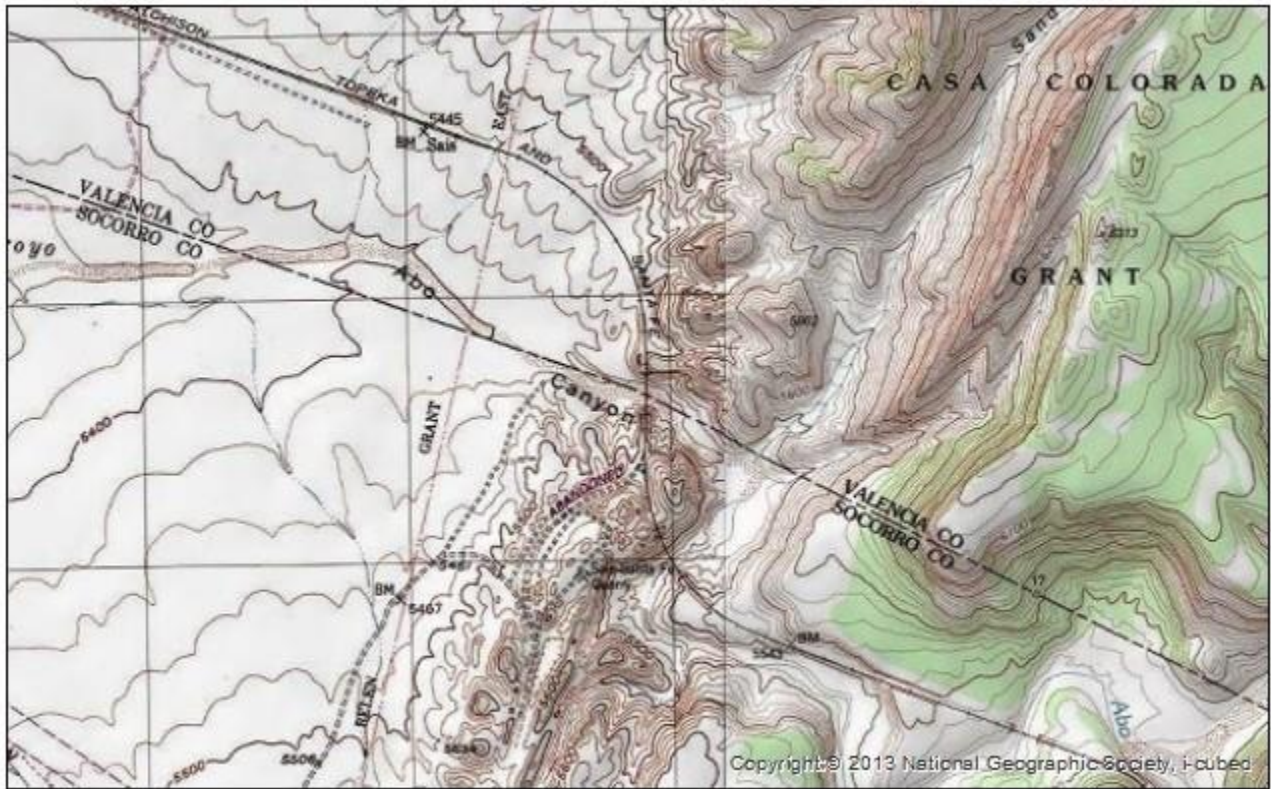
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(Figure 5) BNSF Railway project area location, GIS-ArcMap; USA Topo Maps 2013.

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(Photograph 1) Abo Arroyo facing East, looking upstream from the study area.



(Photograph 2) Abo Arroyo facing west, looking at the railway bridge furthest to the west and the downstream end of the study area.

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