



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 26, 2021
ORM Number: SPA-2021-00022
Associated JDs: N/A
Review Area Location¹:
State/Territory: NM City: Rio Rancho County/Parish/Borough: Bernalillo County
Center Coordinates of Review Area: Latitude 35.207322 Longitude -106.732551

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

D. Excluded Waters or Features

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

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Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
SPA-2021-022	936 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: *Albuquerque Metropolitan Arroyo Flood Control Authority (AMAFCA)*. Information submitted by the Agent is sufficient for purposes of this AJD.

Rationale: *N/A*

Data sheets prepared by the *National Wetland Plants List (2018)*.

Photographs: *Aerial: designated project area and stream imagery; on 2020-09-20, 2020-02-28, 2020-04-17, 2020-06-16, 2019-06-18, and 2019-07-15 (images 1-5; pg.8-10).*

Site Photographs: images of ephemeral stream as seen at ground level (Photos 1&2; pg.11).

___ 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); Condition of Drought with 7-day average stream flow compared to historical stream flow in the state of New Mexico.
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 (2021)
Other	Digital Globe, G-EGD/EVWHS aerial imagery (image attachments 1-7); GIS-ArcMap; National Geographic Society, 2013 (USA Topo Maps) (Figure 2); GIS-ArcMap; National Geographic Society, 2013 (USA Topo Maps & World Elevation/Terrain- Hillshade Imagery [ESRI]) (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. 2020, <i>Large Contribution from Anthropogenic Warming to an Emerging 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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U.S. ARMY CORPS OF ENGINEERS
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- 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, it should be noted that upon reviewing the ATP results discussed in the next section, this area experiences a highly variable amount of precipitation each year. Due to this lack of a consistent amount of precipitation from year to year for the review area, it is difficult to determine whether the analysis has been conducted during normal, wetter, or drier conditions. Regardless, the results of this AJD are not heavily reliant on the typical year assessment.

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, 2020).

- C. Additional comments to support AJD:** The review area for this AJD consists of approximately 936 linear feet of the Calabacillas Arroyo West branch watershed and encompasses the location of one planned project by AMAFCA.

Calabacillas Arroyo west branch originates from the eastern facing flanks of an un-named geographical plateau located west of the review area. From this point, the stream channel extends southeast into the review area, and then continues East-southeast to its confluence with the Arroyo De Las Calabacillas main channel. Located in the community of Rio Rancho, where it then converges with the Rio Grande immediately after crossing under Coors Boulevard Northwest. The average width of the subject channel measures approximately 10 feet and varies in depth between 1 to 3 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.

The review area is located within the Albuquerque Basin ecological region (22m) west of the Rio Grande Floodplain (22g) (Griffin G.E. 2006). This location also resides in the Western Range and Irrigated Land Resource Region (D) more specifically in Land Resource Area (MLRA) 35D, Colorado Plateau (USDA Handbook 296, issued 2006). The general area has a moderate dry climate with rain primarily limited to the summer in the form of high intensity convective storm events during the months of July to September. The average annual precipitation for this area is between 6 to 18 inches, with very little winter precipitation; snowfall is minimal and is relatively short lived. Ground water resides more than 80 inches below the soil surface. The average annual temperatures in this area range from 36 to 66° Fahrenheit (F) (2 to 19°Celsius [C]) (USDA Handbook 296, issued 2006). Predominate soil types in the review area are indicative of two map units: Bluepoint loamy fine sand, 1-9 percent (%) slopes (BCC), Madurez loamy fine sand, 1-5% slopes (MaB). The units are identified based on the area’s taxonomic classification of dominant soils, which are described below.

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REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
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- BCC includes an estimated 85% Bluepoint and similar soil composition and a 15% minor components or similar soil composition. Soils can be found in landforms identified as stream terraces (e.g. backslopes or riser). The BCC soil profile includes an upper horizon between 0-5 inches consisting of a loamy fine sand, a mid-horizon between 5-53 inches consisting of a loamy fine sand structure, and a lower horizon between 53-60 inches consisting of loamy sand. The soil is characterized as having high infiltration rates and does not have the potential to pond or flood.
- MaB includes an estimated 90% Madurez and similar soil composition and 10% minor soil components. Soils can be found in landforms identified as fan piedmonts and alluvial fans (e.g. rise). The MaB soil profile includes an upper horizon between 0-4 inches consisting of a loamy fine sand, a mid-horizon between 4-21 inches consisting of a sandy clay loam, and a lower horizon between 21-60 inches consisting of 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 and includes a mixture of sand scrub and desert grass land. Plant species include sand sagebrush (*Artemisia filifolia* Torr.), Grass species consist of black grama (*Bouteloua eriopoda* Torr.), blue Grama (*Bouteloua Gracilis*), sand dropseed (*Sporobolus crytandus*), and yucca (*Yucca* L.).

Satellite imagery and site photos provided by the applicant's consultant show no surface water or flow in the stream channel. The APT was run for the date of *September 20, 2020* in conjunction with the review of the most recent aerial imagery taken in the area (see document *2021-022 APT 2020-09-20* and image 1 provided below). Imagery shows that no flows or ponding was evident in the channel at that time. Additional aerial imagery was obtained for *February 28, 2020* during the wet season and *June 16, 2020* imagery during the beginning of the monsoon season (see Images 2 and 3 below). The additional dates in 2020 discussed above also did not show indicators of flow or ponding within the study area despite falling within the wet season and monsoon season. A second APT was conducted for the dates ending on *June 18, 2019* and *July 15, 2019*. Aerial imagery was obtained on those corresponding dates (*June 18, 2019* and *July 15, 2019*) to assess indicators of flow in a year with normal or wetter than normal conditions during the monsoon season (see document *2021-022 APT Data 2019_9-2020_others* and images 4 and 5 provided below). The aerial images taken on the aforementioned dates in 2019 show no observable indicators of flow even with the APT results indicating wetter than normal precipitation conditions. Additionally, the APT results show an estimated 0.5-inch precipitation event occurring less than two weeks prior to the *July 15, 2019* imagery with no visible signs of flow or ponding based on the attached aerial image taken shortly after the storm event (see image 5).

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, that the stream channel within the review area only experience flows in response to storm events and, is therefore, ephemeral. As

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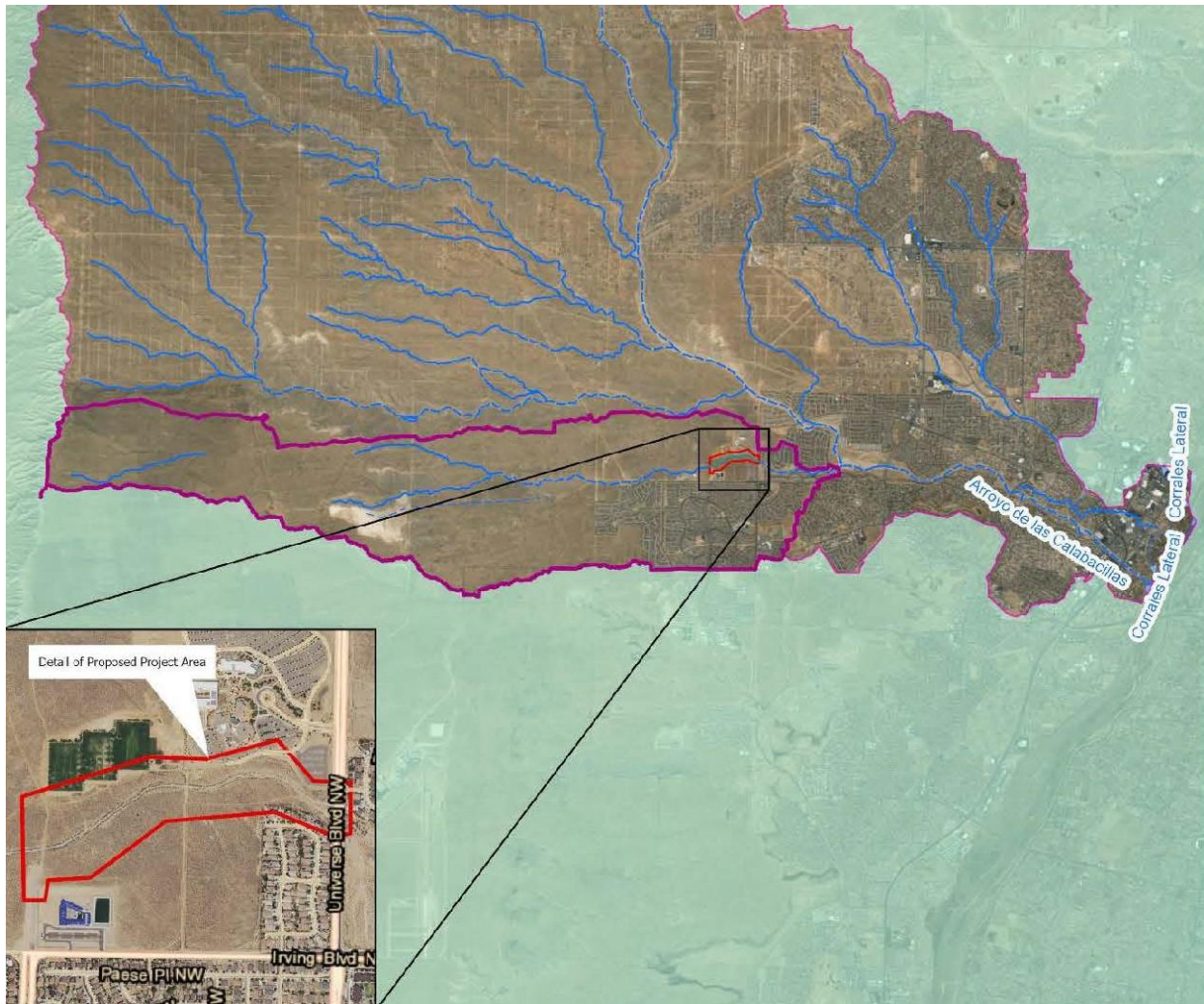
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NAVIGABLE WATERS PROTECTION RULE

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.



(Figure1); Map of proposed Project area/location/watershed, figure was provided by the applicant.

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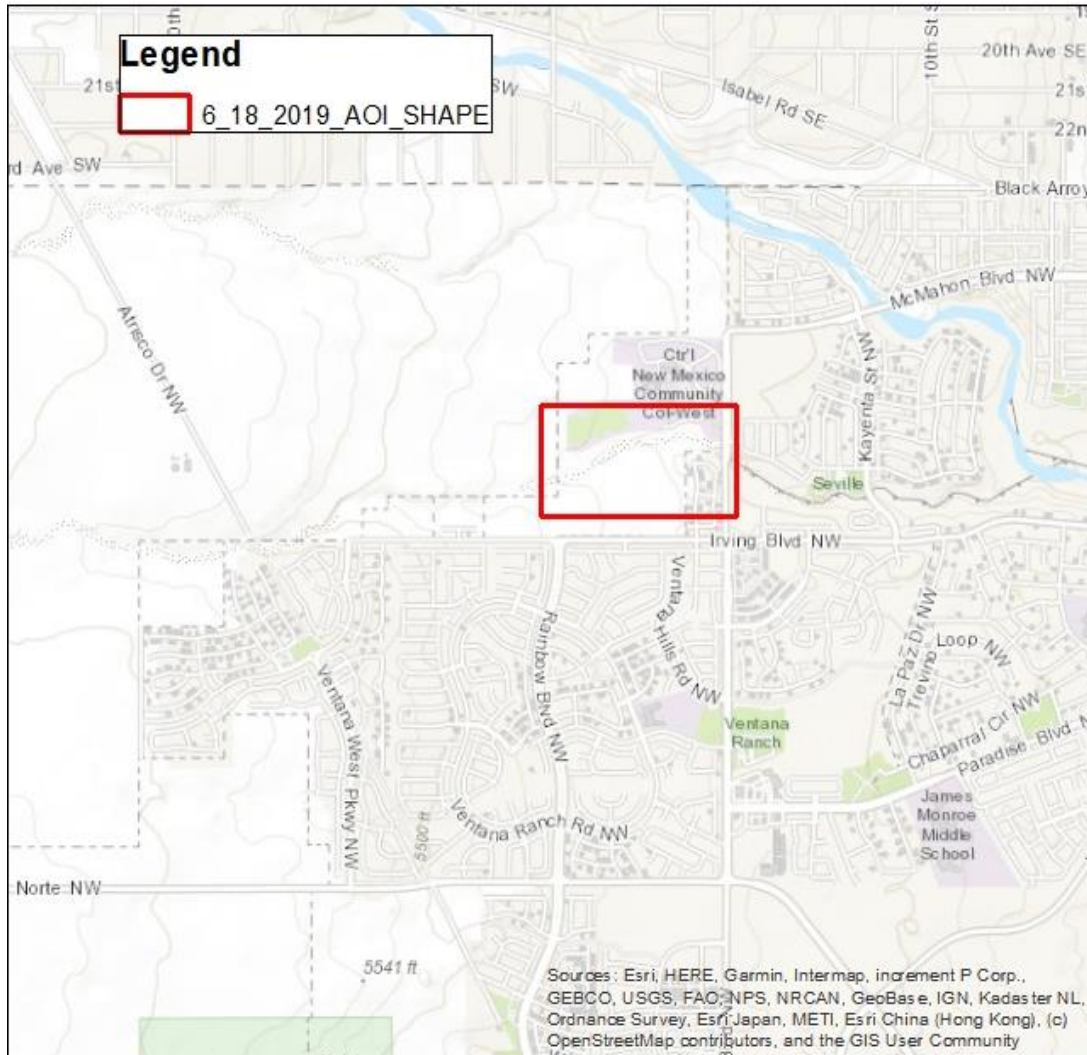
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U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE



(Figure 2) AMAFCA approximate project area of interest (AOI) and location, GIS-ArcMap; USA Topo Maps 2013.

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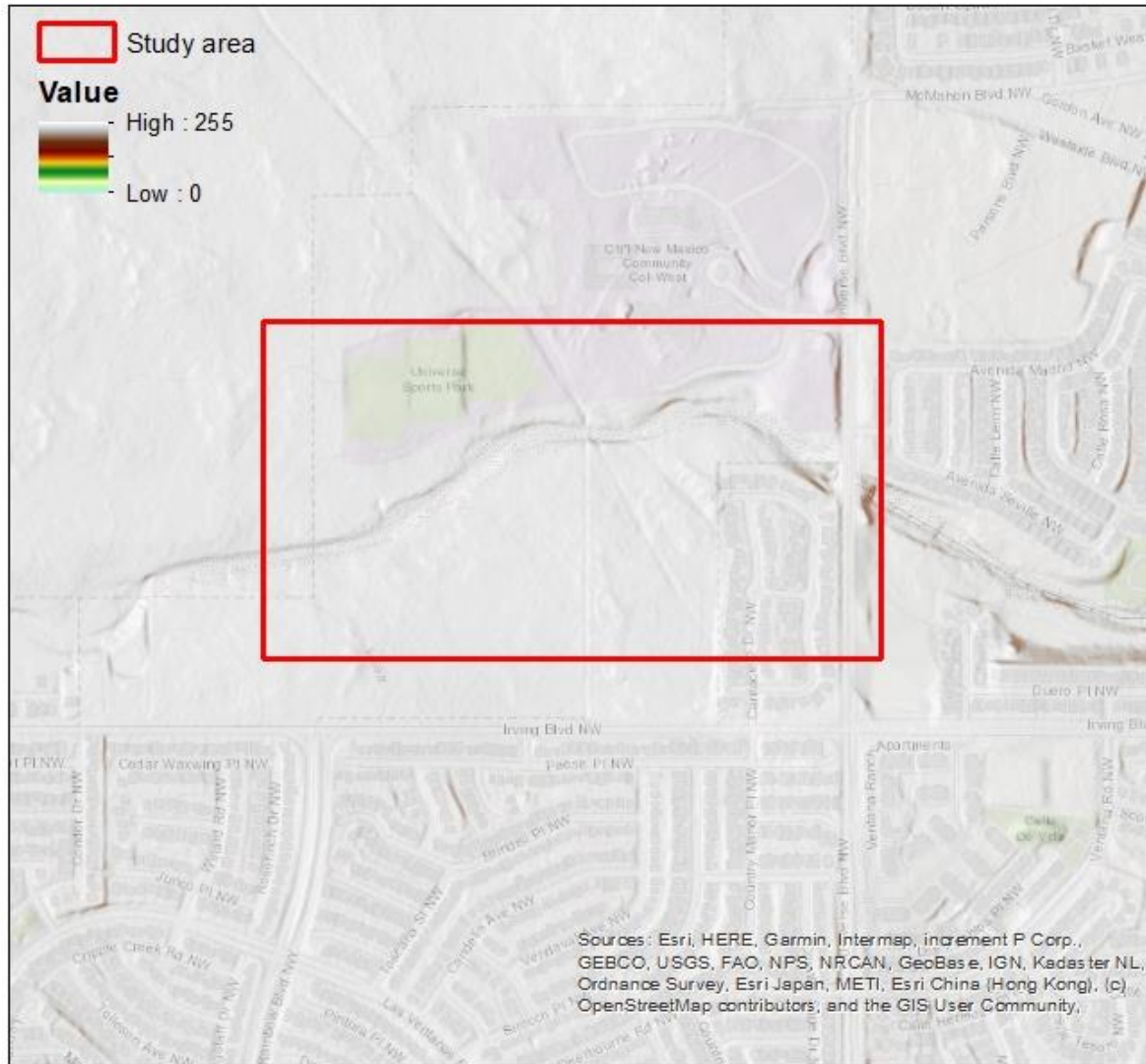
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U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE



(Figure 3) AMAFCA approximate project AOI and location, GIS-ArcMap; USA Topo Maps 2013 with World Elevation/Terrain- Hillshade Imagery.

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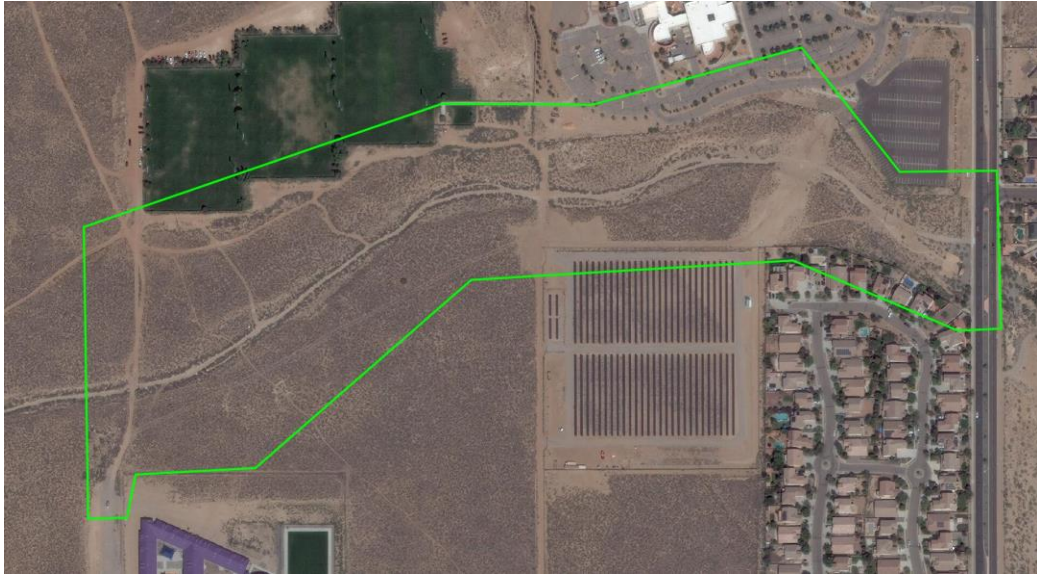
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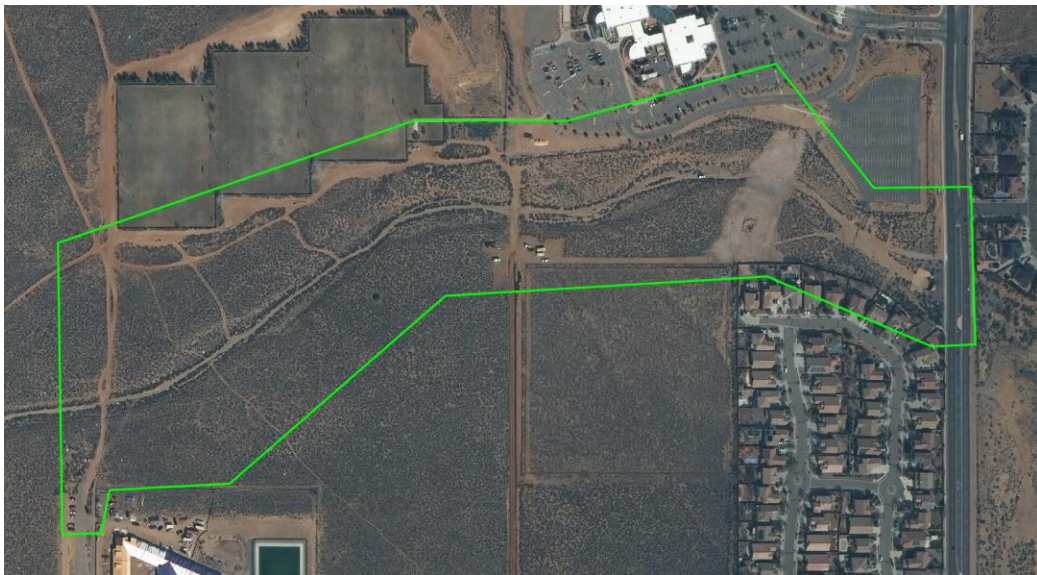
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U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE



(Image 1) AMAFCA ~936 linear foot project study area; Digital Globe satellite imagery; September 20, 2020 (end of monsoon season) no indication of flow throughout the study area.



(Image 2) AMAFCA ~936 linear foot project study area; Digital Globe satellite imagery; February 28, 2020 (wet season) no indication of flow throughout the study area.

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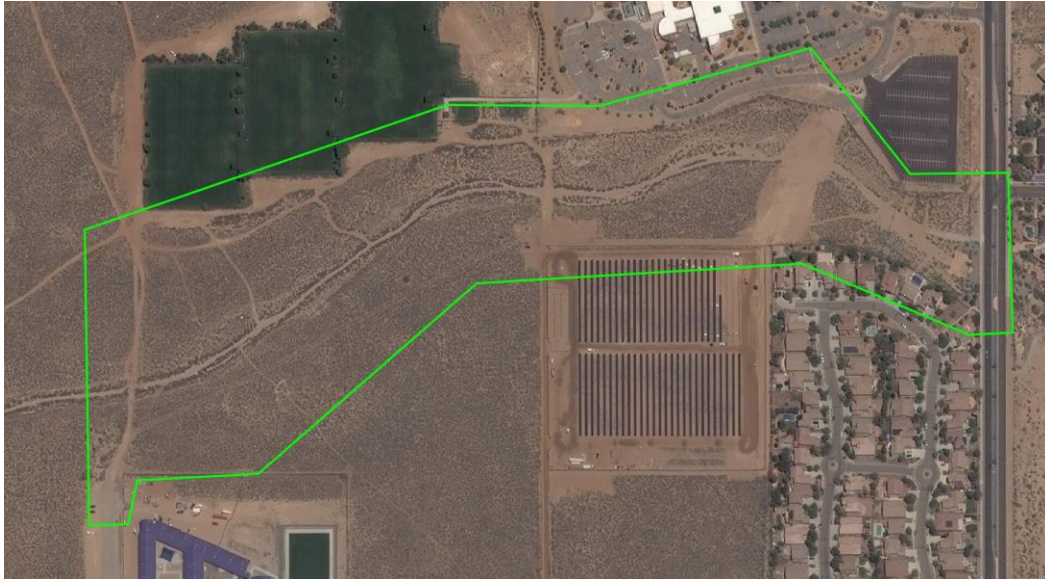
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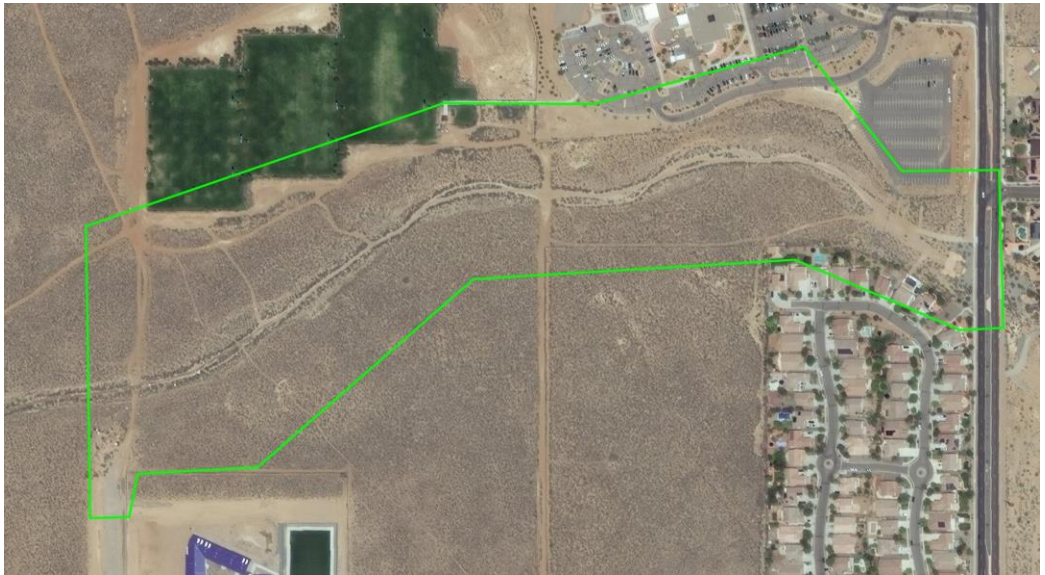
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REGULATORY PROGRAM
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NAVIGABLE WATERS PROTECTION RULE



(Image 3) AMAFCA ~936 linear foot project study area; Digital Globe satellite imagery; June 16, 2020 (beginning of monsoon season) no indication of flow throughout the study area.



(Image 4) AMAFCA ~936 linear foot project study area; Digital Globe satellite imagery; June 18, 2019 (monsoon season) no indication of flow throughout the study area.

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(Image 5) AMAFCA ~936 linear foot project study area; Digital Globe satellite imagery; July 15, 2019 (monsoon season) no indication of flow throughout the study area.

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U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE



(Photo 1) AMAFCA ~936 linear foot project study area; overlooking channel, facing Southwest.



(Photo 2) AMAFCA ~936 linear foot project study area; overlooking study area for vegetation type, facing West.

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.