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): 8/18/2021
ORM Number: SPA2021-239
Associated JDs: N/A
Review Area Location[1]: State/Territory: New Mexico City: Santa Fe County/Parish/Borough: Santa Fe
Center Coordinates of Review Area: Latitude 35.584874° Longitude -106.026119°

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: Upland Area
- ☐ 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.	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.	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.	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.	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.	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.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
N/A	N/A	linear feet	N/A.	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: Request for Jurisdictional Determination & Aquatic Resources Assessment/Approved JurisdictionalDetermination Request for the Esencia Subdivision Project.

This information is sufficient for purposes of this AJD.

Rationale: N/A or describe rationale for insufficiency (including partial insufficiency).

☒ Data sheets prepared by the Corps: 2021-239 APT Batch Results

☒ Photographs: Aerial and Other: 2021-239 3-2-2021, 6-10-2017, & 11-1-2015 Review Area

☒ Corps site visit(s) conducted on: August 10, 2021

☐ 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: July 26, 2021

☒ USFWS NWI maps: 2021-239 Review Area_NWI

☒ USGS topographic maps: 2021-239 Review Area USGS Topo

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	2021-239 Review Area_Depth_to_Water
Other USDA data (specify)	2021-239 Review Area_EDIT
NOAA Sources	2021-239 Santa Fe County Drought Map
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, 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

[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.

amount of precipitation from year to year in 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, 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.

The National Oceanic and Atmospheric Administration (NOAA) categorizes drought conditions by intensity, and data over the last 20 years indicates that the Albuquerque District has experienced consistent drought conditions throughout this period. Current conditions in Santa Fe County reflect "exceptional drought" across an estimated 66.68% of the county and 94.59% of the county is experiencing "extreme drought"(NOAA, 2021).

C. Additional comments to support AJD: The review area for this AJD includes the location of a planned project by Esencia Holdings, LLC. The project is for the construction of a residential subdivision on approximately 275 acres, which will include hiking trails, parks, and 6-acre amenity center.

According to information provided by the NRCS and their Ecosystem Dynamics Interpretive Tool (EDIT), the review area has a semi-arid continental climate. There are distinct seasonal temperature variations. Mean annual precipitation varies from 10 to 16 inches. However, wide yearly and seasonal fluctuations are common within this climate zone which can range from 5 to 25 inches. The overall climate is characterized by cold dry winters in which winter moisture is less than summer. Of this, approximately 25-35% falls as snow, and 65-75% falls as rain between April 1 and November 1. As much as half or more of the annual precipitation can be expected to come during the period of July through September. August is typically the wettest month of the year. The driest period is usually from November to April; and February is normally the driest month. During July, August, and September 4 to 6 inches of precipitation influence the presence and production of warm season plants. Fall and spring moisture is conducive to the growth of cool-season herbaceous plants and maximum shrub growth. Growth usually begins in March and ends with plant maturity and seed dissemination when the moisture deficiency and warmer temperatures occur in early June. There is also a period of growth in the fall. Summer precipitation is characterized by brief thunderstorms, normally occurring in the afternoon and evening. Winter moisture usually occurs as snow, which seldom lies on the ground for more than a few days. The average annual total snowfall is 29.1 inches. The snow depth usually ranges from 0 to 1 inch during the winter months.

According to the NRCS soil map the review area has 3 main soil types, Khapo sandy loam (39.4%), Panky loam (38.7%), and Zozobra-Jaconita complex (16.4%). These soils are described as generally deep and well drained. The soil is also characterized as having a low water capacity and does not flood or pond i.e. site is not influenced by water from a wetland or stream. Furthermore, the NRCS water table map has the water table greater than 6.5 feet below the surface.

An APT report was conducted for the following dates in conjunction with reviewing satellite imagery of the review area, August 9, 2021, March 2, 2021, June 10, 2017, and November 11, 2015 (see APT document 2021-239 APT Batch Results.pdf and associated satellite imagery, 2021-239 3-2-2021 Review Area, 2021-239 6-10-2017 Review Area, and 2021-239 11-1-2015 Review Area). August 9, 2021 was selected because a site visit was conducted August 10, 2021 and the end of July saw over 0.5 inches of precipitation, but no water was observed at the site. March 2, 2021 was selected because the wetness condition was listed as “normal” and the area had approximately 0.5 inches of precipitation 2 weeks before this observation date. The date of June 10, 2017 was selected because the area observed 0.56 inches of precipitation during the 30 days prior to the observation date. November 11, 2015 was selected because the drought index is listed as “moderate wetness” and had approximately 1.75 inches of precipitation a week before this observation date. Conducting the analysis of corresponding satellite imagery for these observation dates (other than August 9, 2021 when a site visit was conducted the following day), no surface water or indication of recent flows were observed in the review area. The closest water feature is Cienega Creek which is located outside the review area. The entire review area contains no water features and comprises upland characteristics. As such, and in consideration of the other information provided above, it has been determined that there are no waters of the U.S. present and that the review area is comprised of entirely dry land.