



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): June 4, 2021  
ORM Number: SPA-2021-00068  
Associated JDs: SPA-2016-00142 (Eastern NM Rural Water System First Pipeline Package)  
Review Area Location<sup>1</sup>:  
State/Territory: NM City: N/A County/Parish/Borough: Curry County  
Center Coordinates of Review Area: Latitude 34.522472 Longitude -103.337936

**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                                |

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

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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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**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   |
|----------------|----------------|-----------------------------|---|
| DP1-28-05-34   | 15 acres       | (b)(1) Non-adjacent wetland | The wetland does not exhibit a connection to any nearby aquatic resource and is categorized as a non-adjacent wetland excluded from jurisdiction. |

**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: *“Eastern New Mexico Rural Water System Finished Water Pipeline-Aquatic Resources” (March 10, 2021).*

This information is sufficient for purposes of this AJD.

Rationale: *N/A*

Data sheets prepared by the Corps: *N/A*

Photographs: *Applicant submitted photos (Photos 1-3) [“Eastern New Mexico Rural Water System Finished Water Pipeline-Aquatic Resources” (2021)].*

Corps Site visit(s) conducted on: *N/A*

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: *N/A*

USFWS NWI maps: *N/A*

USGS topographic maps: *N/A*

**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               | N/A.  |
| 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 applicant’s onsite examination on November 2 & 3, 2021 was conducted during a climatological “typical year” for the review area. Data was gathered from three (3) weather stations located approximately 7.3-miles (Clovis 13 N), 12.1-miles (Clovis), and 18.9-miles (Melrose) from the review area. Results from the APT note that on the day of the applicant’s field visit the review area was in the dry season and experiencing severe drought. The APT results indicate that the field visit was conducted during drier than normal conditions for the rolling 30-year period.

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- C. Additional comments to support AJD:** The review area encompasses an approximately 15.4-mile length of a planned finished water pipeline corridor and contains one (1) identified aquatic resource [AR] (i.e. DP1-28-05-34 [wetland]) and two (2) aquatic features (i.e. DP1-23-04-34 [Running Water Draw] & DP1-36-04-34). The review area is found within the 12-digit Hydrologic Unit Code (HUC) boundary of Cannon Air Force Base (120500020105), Town of Ranchvale (120500020107), no name (120500050301), and Garrett Ranch-Running Water Draw (120500050104).

The applicant has submitted a delineation report titled “Eastern New Mexico Rural Water System Finished Water Pipeline-Aquatic Resources”, dated March 10, 2021, of the review area. A delineation was originally conducted at DP1-28-05-34, DP1-23-04-34 [Running Water Draw], and DP1-36-04-34 in 2008 and follow-up field work to confirm the status of these features was conducted on November 2 & 3, 2021. The report indicates the presence of a wetland at site DP1-28-05-34. Furthermore, the report categorizes aquatic features DP1-23-04-34 (i.e. Running Water Draw) and DP1-36-04-34 as upland vegetated swales with no defined bed and bank.

Aerial photographs of the review area were examined using Google Earth. Aerial photographs of imagery dated March 1997, November 2003, July 2005, September 2006, August 2009, August 2011, March 2012, January 2014, and February 2020 were examined as part of this review. Surface water flow was not observed within the examined aerial photographs for aquatic features DP1-23-04-34 (i.e. Running Water Draw) and DP1-36-04-34. Inundation was observed within the aerial photographs for AR DP1-28-05-34 during the dates of November 2003 and February 2020. The aerial photographs indicate AR DP1-28-05-34 (wetland) receives sheet flow from the surrounding uplands and lacks an outlet with a connection to any nearby ARs. AR DP1-23-04-34 (i.e. Running Water Draw) is located within a draw that extends several miles upstream and downstream of the review area. Aerial imagery appears to confirm the review area within the draw does not contain a defined bed and bank. DP1-36-04-34 appears to be a segment of a draw with a discontinues flow path which eventually flows into a playa outside of the review. Aerial imagery appears to confirm the lack of a defined bed and bank within the review area. Furthermore, the playa appears to receive flows from DP1-36-04-34 and lacks an outlet with a connection to any nearby ARs.

ARs DP1-23-04-34 (i.e. Running Water Draw) and DP1-36-04-34 have been excluded from this review as they lack a defined bed and bank and are, therefore, considered non-jurisdictional upland areas. Based on the review of aerial imagery and the submitted delineation report, the Corps has determined DP1-28-05-34 is a non-adjacent wetland categorized as a (b)(1) water in 33 CFR 328.3 (b)(1). In accordance with 33 CFR 328.3 and the June 22, 2020 implementation of the Navigable Water Protection Rule, DP1-28-05-34 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.

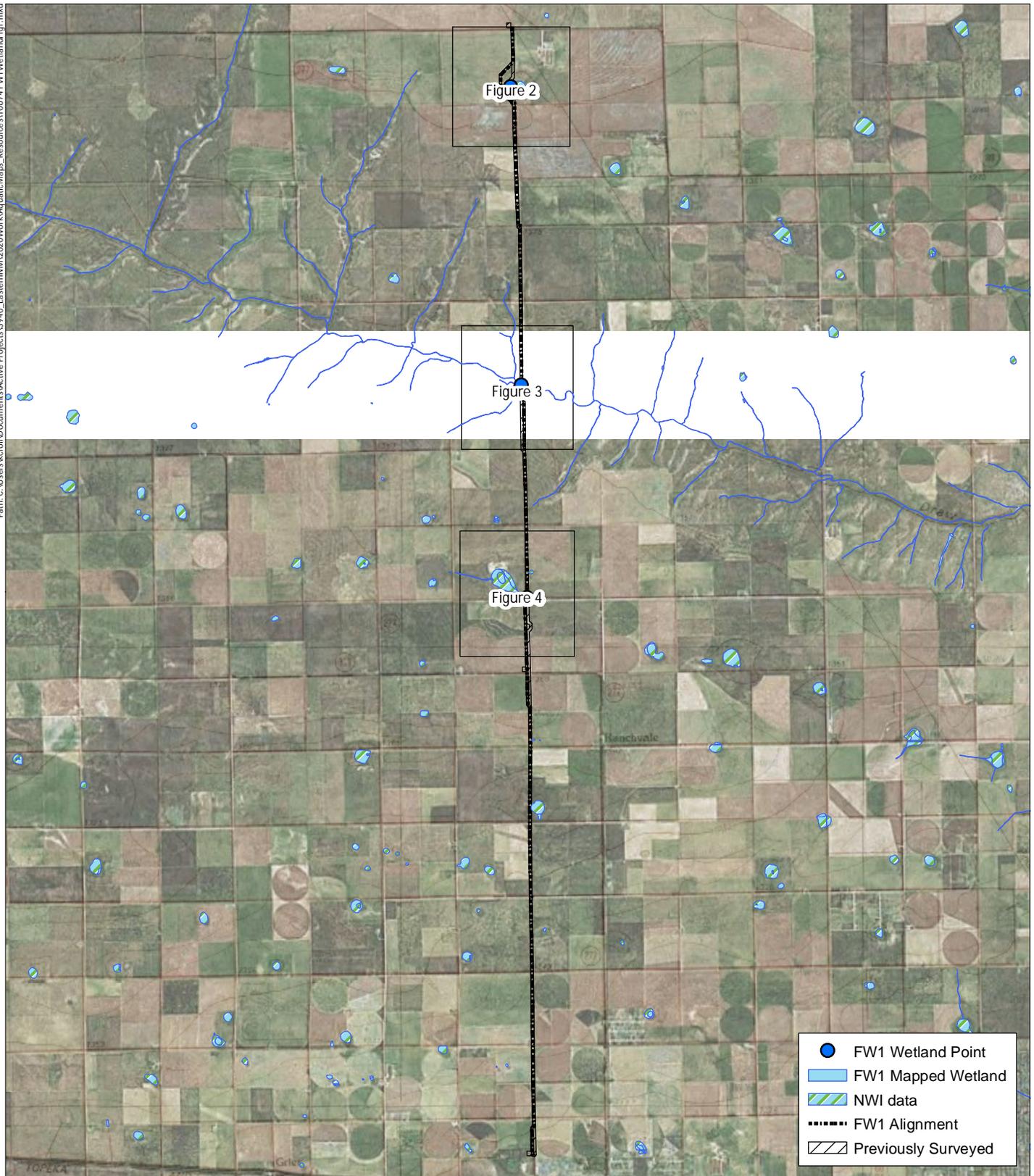
<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

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## Eastern New Mexico Rural Water System Finished Water 1 Pipeline Wetland Studies

T4N, R34E; T3N, R34E; and T2N, R34E; NM PM  
 USGS Portair, Garrett Ranch, and Smith Ranch, NM Quadrangles (24,000)  
 Curry County, New Mexico

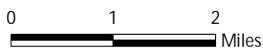


Figure 1  
 Map Index



Prepared for: Jacobs  
 File: 10674 FW1WetlandFig1.mxd (KC)  
 March 10, 2021

