



**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): 9/15/2020

ORM Number: NWK-2020-765

Associated JDs: N/A

Review Area Location¹: State/Territory: MO City: Lee's Summit County/Parish/Borough: Jackson County

Center Coordinates of Review Area: Latitude 38.950502 Longitude -94.380472

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
- 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
NWK-2020-765 Tributary 1	1,724 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary 1 is classified as an (a)(2) water per evidence gathered from the consultant's site visit 2019-8-6. From aerial photographs and NWI provided, Tributary 1 flows northwest and makes a downstream hydrologic connection with an (a)(3) water, Unity Lake 2. The water feature is naturally occurring and field data exhibits stream flow in absence of precipitation events, though defined as discrete and confined flow. Upstream, the tributary makes hydrologic connections with both a jurisdictional water feature (Tributary 2) and non-

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.



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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
				jurisdictional feature (Tributary 3, ephemeral). Under new NWPR language, this hydrologic connection with a non-jurisdictional ephemeral feature does not sever jurisdiction for Tributary 1 due to downstream jurisdictional connection. Therefore, Tributary 1 is a jurisdictional (a)(2) water.
NWK-2020-765 Tributary 2	1,347	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary 2 is classified as an (a)(2) water per evidence gathered from the consultant's site visit 2019-8-6. The stream channel is described as wide and manipulated, having had a culvert constructed along the channel. Data collected shows stream flow occurring in Tributary 2 without aid of significant precipitation, though described as discrete and confined. As well, Tributary #2 makes a downstream hydrologic connection with Tributary 1, which further makes a connection to an (a)(3) water, Unity Lake 2. Based on this evidence, Tributary 2 is a jurisdictional (a)(2) water.

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.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
NWK-2020-765 Tributary 3	1,434	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary 3 is classified as a (b)(3) exclusion under new NWPR language per evidence from a 2019-8-6 site visit and delineation by the consultant. In this data, Tributary 3 had no flowing or standing water in the stream channel, thus meeting definitions of an ephemeral water feature. Therefore, Tributary 3 is a non-jurisdictional feature.
NWK-2020-765 Tributary 4	1,331	linear feet	(b)(3) Ephemeral feature, including an ephemeral	Tributary 4 is classified as a (b)(3) exclusion under new NWPR language per evidence from a 2019-8-6 site visit and delineation by the consultant. In this data, Tributary 4 had no

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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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
		stream, swale, gully, rill, or pool.	flowing or standing water in the stream channel, thus meeting definitions of an ephemeral water feature. Therefore, Tributary 4 is a non-jurisdictional feature.
NWK-2020-765 Tributary 5	718	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Tributary 5 is classified as a (b)(3) exclusion under new NWPR language per evidence from a 2019-8-6 site visit and delineation by the consultant. In this data, Tributary 5 had no flowing or standing water in the stream channel, thus meeting definitions of an ephemeral water feature. Therefore, Tributary 5 is a non-jurisdictional feature.
NWK-2020-765 Wetland 1	0.04	acre(s)	(b)(1) Non-adjacent wetland. Wetland 1 is a small, palustrine aquatic bed wetland located in the middle of the project site. It is a stand-alone wetland that makes no hydrologic connection with a jurisdictional feature, with its nearest nexus being adjacency to a non-jurisdictional ephemeral feature. Therefore, Wetland 1 is a non-jurisdictional feature under a (b)(1) exclusion.
NWK-2020-765 Wetland 2	1.08	acre(s)	(b)(1) Non-adjacent wetland. Wetland 2 is a palustrine emergent wetland classified as (b)(1) exclusion per evidence gathered from a 2019-8-6 delineation and site visit by the consultant. Wetland 2 is located upstream of Tributary 3 and downstream of Tributaries 4 and 5, with Tributaries 4 and 5 draining into Wetland 2 and then draining to Tributary 3. These hydrologic connections are only with non-jurisdictional ephemeral features. Therefore, Wetland 2 is a non-jurisdictional feature under a (b)(1) exclusion.
NWK-2020-765 Wetland 3	0.08	acre(s)	(b)(1) Non-adjacent wetland. Wetland 3 is a palustrine emergent wetland located in the southern region of the project site. It is a stand-alone wetland that makes no hydrologic connection with a jurisdictional feature, with its nearest nexus being adjacency to a non-jurisdictional ephemeral feature. Therefore, Wetland 3 is a non-jurisdictional feature under a (b)(1) exclusion.

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: [Stream & wetland delineation report furnished by Olsson Associates, 2020-09-09](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)



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- Data sheets prepared by the Corps: *N/A*
- Photographs: *Select. N/A*
- Corps site visit(s) conducted on: *N/A*
- Previous Jurisdictional Determinations (AJDs or PJDs): *N/A*
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: *N/A*
- USFWS NWI maps: *NWI map sourced through USACE Regulatory Viewer, 2020-09-15*
- 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
<i>USGS Sources</i>	<i>N/A.</i>
<i>USDA Sources</i>	<i>N/A.</i>
<i>NOAA Sources</i>	<i>N/A.</i>
<i>USACE Sources</i>	<i>N/A.</i>
<i>State/Local/Tribal Sources</i>	<i>N/A.</i>
<i>Other Sources</i>	<i>N/A.</i>

B. Typical year assessment(s): *The APT data generated for site and date show higher precipitation rates over the last 30 days from 2019-08-06 compared to the normal 30 year range. This data supports the site experiencing wetter than normal conditions of precipitation. There were small precipitation events a couple days before the date of the site visit and delineation, but this appears to be negligible and have little effect on the findings of the site.*

C. Additional comments to support AJD: *N/A*