



**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): 9/8/2020

ORM Number: NWK-2020-00719

Associated JDs: N/A

Review Area Location¹: State/Territory: Kansas City: near Wakefield County/Parish/Borough: Clay

Center Coordinates of Review Area: Latitude 39.143478 Longitude -97.056771

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.

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
NWK-2020-00719-1 (Unnamed ephemeral stream)	2400	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	<p>The unnamed ephemeral stream is a first order system with approximately 200 acres of drainage above the project reach. The ephemeral feature consists of grassed waterway, wooded channel and farmed channel. The farmed channel is located at the bottom of the ephemeral stream reach. The ephemeral feature lacks a discernible ordinary high water mark on available aerial imagery. The fact that the lower portion of the reach is annually cultivated indicates that the stream flows infrequently and for abbreviated periods of time as a direct result of precipitation runoff.</p> <p>The following aerial images indicate no continuous flows or inundated channel (source Google Earth Pro): June 15, 2005; June 14, 2006; June 25, 2008; August 19, 2010; September 21, 2012; and August 11, 2014.</p> <p>Based upon review of the aforementioned considerations, it is determined that the stream exhibits an ephemeral flow regime in direct response to runoff. No evidence of any sustained continuous flows were observed.</p>

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: Location map submitted with determination request.

This information is sufficient for purposes of this AJD.

Rationale: Location is sufficient for making a determination on the stream channel.

Data sheets prepared by the Corps: Title(s) and/or date(s).

Photographs: Select. Title(s) and/or date(s).

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: Title(s) and/or date(s).

USFWS NWI maps: Title(s) and/or date(s).

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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USGS topographic maps: [USGS 1:24K – Wakefield-KS](#)

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	Antecedent Precipitation Tool (APT) was ran for six of the aerial dates available on Google Earth Pro. See typical year assessment summary in “B” below.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): [Available aerial imagery was reviewed on Google Earth Pro for eleven different years covering a range of dates between June and September. No continuous flows or inundated channel were observed within the JD review reach in any of the aerial images. Based on the broad range of dates and number of years reviewed from 1991 to 2014, it is determined that this stream exhibits ephemeral flows during a typical year. APT assessment indicates that no flow conditions occurred during “Normal Conditions”. Six APT reports were ran and are included in the administrative record.](#)

C. Additional comments to support AJD: [The first order ephemeral stream reach is excluded from Section 404 Clean Water Act jurisdiction.](#)