



**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): 9/21/2020

ORM Number: NWK-2018-1178

Associated JDs: NWK-2018-1178 PJD

Review Area Location¹: State/Territory: Kansas City: Shawnee County/Parish/Borough: Johnson County

Center Coordinates of Review Area: Latitude 39.01821 Longitude -94.74501

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
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-2018-01178 Ephemeral 1	400	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	NWK-2018-01178 Ephemeral 1 was identified as an ephemeral water feature under previous jurisdiction and a preliminary jurisdictional determination was issued (NWK-2018-1178, 2019-03-26) with the same classification. Under new language from the Navigable Waters Protection Rule (NWPR), this feature is now a (b)(3) exclusion due to its ephemeral classification and is therefore non-jurisdictional.
NWK-2018-01178 Ephemeral 2	196	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	NWK-2018-01178 Ephemeral 2 was identified as an ephemeral water feature under previous jurisdiction and a preliminary jurisdictional determination was issued (NWK-2018-1178, 2019-03-26) with the same classification. Under new language from the Navigable Waters Protection Rule (NWPR), this feature is now a (b)(3) exclusion due to its ephemeral classification and therefore non-jurisdictional.
NWK-2018-01178 Pond	0.90	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	NWK-2018-01178 pond is an impoundment of non-jurisdictional Ephemeral channel 1. With non-jurisdictional water features being the only hydrologic connections to the pond both upstream and downstream, NWK-2018-01178 pond is a non-jurisdictional water feature under NWPR language.
NWK-2018-01178 Wetland 1	0.08	acre(s)	(b)(1) Non-adjacent wetland.	NWK-2018-01178 Wetland 1 is a palustrine emergent wetland located in the northwest region of the project site. This wetland only has one hydrologic connection with NWK-2020-01178 Ephemeral 2, a (b)(3) exclusion and non-jurisdictional feature. This classifies NWK-2018-01178 Wetland 1, as a (b)(1) exclusion and therefore a non-jurisdictional feature.
NWK-2018-01178 Wetland 2	0.25	acre(s)	(b)(1) Non-adjacent wetland.	NWK-2018-01178 Wetland 2 is a palustrine emergent wetland around the fringe of NWK-2018-01178, Pond. The only hydrologic

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
			connection to and from the pond both upstream and downstream are non-jurisdictional ephemeral waters (2018-1178, Ephemeral 1). Therefore, wetland 2 is an excluded non-adjacent (b)(1) water.

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: *N/A*
This information *Select.* sufficient for purposes of this AJD.
Rationale: *N/A*
- 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): *NWK-2018-1178 PJD, 2019-03-26*
- 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
<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): *N/A*

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