



**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-2020-706

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Missouri City: Kansas City County/Parish/Borough: Clay County and Platte County

Center Coordinates of Review Area: Latitude 39.28188 Longitude -94.59881

**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
NWK-2020-706 Intermittent 1	1,597 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Observed pooling and flow indicates Intermittent 1, First Creek, maintains flow at least seasonally in more than direct response to precipitation. The stream indirectly contributes surface water flow into an (a)(1) water in a typical year, therefore Intermittent 1 is jurisdictional.

<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 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.

<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 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
NWK-2020-706 Intermittent 2	1,406	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Observed pooling and flow indicates Intermittent 2 maintains flow at least seasonally in more than direct response to precipitation. The stream indirectly contributes surface water flow into an (a)(1) water in a typical year, therefore Intermittent 2 is jurisdictional.

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
NWK-2020-706 Wetland 3	0.18	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland 3 receives hydrology from sheet flow and Ephemeral 3 and Ephemeral 4 to the south. Surface water from this wetland flows north into Intermittent 1. Therefore, Wetland 3 is jurisdictional.

**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
NWK-2020-706 Ephemeral 1	683	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral 1 flows northeast into Intermittent 1. The lack of pooling and flow indicates that Ephemeral 1 does not maintain flow in more than direct response to precipitation. Therefore, the stream is non-jurisdictional.
NWK-2020-706 Ephemeral 2	149	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral 2 flows north into Ephemeral 1. The lack of pooling and flow indicates that Ephemeral 2 does not maintain flow in more than direct response to precipitation. Therefore, the stream is non-jurisdictional.
NWK-2020-706- Ephemeral 3	1,648	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral 3 flows northwest through Wetland 3 into Intermittent 1. The lack of pooling and flow indicates that Ephemeral 3 does not maintain flow in more than direct response to precipitation. Therefore, the stream is non-jurisdictional.
NWK-2020-706 Ephemeral 4	870	linear feet	(b)(3) Ephemeral feature, including an ephemeral	Ephemeral 4 flows northeast through Wetland 3 and into Intermittent 1. The lack of pooling and flow indicates that Ephemeral 4 does not

<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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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
		stream, swale, gully, rill, or pool.	maintain flow in more than direct response to precipitation. Therefore, the stream is non-jurisdictional.
NWK-2020-706 Ephemeral 5	217	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Ephemeral 5 flows north into and follows the same path as Ephemeral 4. The lack of pooling and flow indicates that Ephemeral 5 does not maintain flow in more than direct response to precipitation. Therefore, the stream is non-jurisdictional.
NWK-2020-706 Ephemeral 6	52	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Ephemeral 6 flows west into and follows the same path as Ephemeral 3. The lack of pooling and flow indicates that Ephemeral 6 does not maintain flow in more than direct response to precipitation. Therefore, Ephemeral 6 is non-jurisdictional.
NWK-2020-706 Ephemeral 7	99	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Ephemeral 7 flows west into and follows the same path as Ephemeral 3. The lack of pooling and flow indicates that Ephemeral 7 does not maintain flow in more than direct response to precipitation. Therefore, Ephemeral 7 is non-jurisdictional.
NWK-2020-706 Ephemeral 8	1,065	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Ephemeral 8 flows north into Intermittent 2. The lack of pooling and flow indicates that Ephemeral 8 does not maintain flow in more than direct response to precipitation. Therefore, Ephemeral 8 is non-jurisdictional.
NWK-2020-706 Ephemeral 9	243	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Ephemeral 9 flows southwest into Intermittent 2. The lack of pooling and flow indicates that Ephemeral 9 does not maintain flow in more than direct response to precipitation. Therefore, Ephemeral 9 is non-jurisdictional.
NWK-2020-706 Ephemeral 10	135	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Ephemeral 10 flows south into and follows the same path as Ephemeral 12. The lack of pooling and flow indicates that Ephemeral 10 does not maintain flow in more than direct response to precipitation. Therefore, Ephemeral 10 is non-jurisdictional.
NWK-2020-706 Ephemeral 11	205	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Ephemeral 11 flows south into and follows the same path as Ephemeral 12. The lack of pooling and flow indicates that Ephemeral 11 does not flow in more than direct response to precipitation. Therefore, Ephemeral 11 is non-jurisdictional.
NWK-2020-706 Ephemeral 12	1623	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Ephemeral 12 flows southwest into Intermittent 2. The lack of pooling and flow indicates that Ephemeral 12 does not flow in more than direct



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
		stream, swale, gully, rill, or pool.	response to precipitation. Therefore, Ephemeral 12 is non-jurisdictional.
NWK-2020-706 Ephemeral 13	840	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Ephemeral 13 flows northwest into Intermittent 2. The lack of pooling and flow indicates that Ephemeral 13 does not flow in more than direct response to precipitation. Therefore, Ephemeral 13 is non-jurisdictional
NWK-2020-706 Ephemeral 14	1,270	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Ephemeral 14 flows southwest into and follows the same path as Ephemeral 13. The lack of pooling and flow indicates that Ephemeral 14 does not flow in more than direct response to precipitation. Therefore, Ephemeral 14 is non-jurisdictional
NWK-2020-706 Ephemeral 15	135	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Ephemeral 15 flows north into and follows the same path as Ephemeral 13. The lack of pooling and flow indicates that Ephemeral 15 does not flow in more than direct response to precipitation. Therefore, Ephemeral 15 is non-jurisdictional
NWK-2020-706 Ephemeral 16	157	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Ephemeral 16 flows southwest into Intermittent 2. The lack of pooling and flow indicates that Ephemeral 16 does not flow in more than direct response to precipitation. Therefore, Ephemeral 16 is non-jurisdictional
NWK-2020-706 Wetland 1	0.09	acre(s)	(b)(1) Non-adjacent wetland. Wetland 1 receives hydrology from sheet flow and Wetland 2. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 1 is non-jurisdictional.
NWK-2020-706 Wetland 2	0.70	acre(s)	(b)(1) Non-adjacent wetland. Wetland 2 receives hydrology from sheet flow. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 2 is non-jurisdictional.
NWK-2020-706 Wetland 4	0.05	acre(s)	(b)(1) Non-adjacent wetland. Wetland 4 receives hydrology from sheet flow. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 4 is non-jurisdictional.
NWK-2020-706 Wetland 5	0.10	acre(s)	(b)(1) Non-adjacent wetland. Wetland 5 receives hydrology from sheet flow. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 5 is non-jurisdictional
NWK-2020-706 Wetland 6	0.20	acre(s)	(b)(1) Non-adjacent wetland. Wetland 6 receives hydrology from sheet flow. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 6 is non-jurisdictional



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Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination	
NWK-2020-706 Wetland 7	0.35 acre(s)	(b)(1) Non-adjacent wetland.	Wetland 7 receives hydrology from sheet flow. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 7 is non-jurisdictional.	
NWK-2020-706 Wetland 8	0.16 acre(s)	(b)(1) Non-adjacent wetland.	Wetland 8 receives hydrology from sheet flow and an erosional feature to the east. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 8 is non-jurisdictional	
NWK-2020-706 Wetland 9	0.16 acre(s)	(b)(1) Non-adjacent wetland.	Wetland 9 receives hydrology from sheet flow. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 9 is non-jurisdictional.	
NWK-2020-706 Wetland 10	0.32 acre(s)	(b)(1) Non-adjacent wetland.	Wetland 10 receives hydrology from sheet flow. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 10 is non-jurisdictional.	
NWK-2020-706 Wetland 11	0.22 acre(s)	(b)(1) Non-adjacent wetland.	Wetland 11 receives hydrology from sheet flow. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 11 is non-jurisdictional.	
NWK-2020-706 Wetland 12	0.27 acre(s)	(b)(1) Non-adjacent wetland.	Wetland 12 receives hydrology from sheet flow. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 12 is non-jurisdictional.	
NWK-2020-706 Wetland 13	0.83 acre(s)	(b)(1) Non-adjacent wetland.	Wetland 13 receives hydrology from sheet flow and Ephemeral 13. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 13 is non-jurisdictional.	
NWK-2020-706 Wetland 14	0.14 acre(s)	(b)(1) Non-adjacent wetland.	Wetland 14 receives hydrology from sheet flow. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 14 is non-jurisdictional.	
NWK-2020-706 Wetland 15	0.15 acre(s)	(b)(1) Non-adjacent wetland.	Wetland 15 receives hydrology from sheet flow. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 15 is non-jurisdictional.	
NWK-2020-706 Wetland 16	0.34 acre(s)	(b)(1) Non-adjacent wetland.	Wetland 16 receives hydrology from sheet flow. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 16 is non-jurisdictional.	
NWK-2020-706 Wetland 17	0.15 acre(s)	(b)(1) Non-adjacent wetland.	Wetland 17 receives hydrology from sheet flow. The wetland is not adjacent to an (a)(1)-(a)(3) water, nor is it inundated by such in a typical year. Therefore, Wetland 17 is non-jurisdictional.	



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
NWK-2020-706 Pond 1	0.66 acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Pond 1 contributes flow to Ephemeral 2. The pond is an impoundment of Ephemeral 2, a non-jurisdictional water. Therefore, Pond 1 is not jurisdictional.
NWK-2020-706 Pond 2	0.09 acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	This pond was not constructed within the location of a historic or existing tributary channel. The pond was likely constructed for agricultural purposes and would be a preamble water. This pond is not considered to be a jurisdictional water of the United States.
NWK-2020-706 Pond 3	1.03 acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Pond 3 contributes flow to Ephemeral 16 and is an impoundment of a non-jurisdictional water. Therefore, Pond 3 is not jurisdictional.
NWK-2020-706 Pond 4	0.74 acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an	Pond 4 contributes flow to Ephemeral 16 and is an impoundment of a non-jurisdictional water. Therefore, Pond 4 is not jurisdictional.



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
		impoundment of a jurisdictional water that meets (c)(6).	

**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: [Wetland Delineation and Jurisdictional Assessment Submitted by Terra Technologies dated August 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

- Data sheets prepared by the Corps: [N/A](#)
- Photographs: [Aerial and Other: Applicant provided site photographs of aquatic features.](#)
- 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: [Web Soil Survey Aug 2020](#)
- USFWS NWI maps: [National Wetlands Inventory Map Fig 2 Aug 2020](#)
- USGS topographic maps: [USGS Topography Fig 1c Aug 2020](#)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">N/A.</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">N/A.</a>

**B. Typical year assessment(s):** [The Antecedent Precipitation Tool \(APT\) analysis determines if the date specific observation falls within the normal periodic range for the geographic area based on a rolling thirty-year period. The APT indicated that the period of July 22, 2020 had a “normal condition” during the dry season that directly followed a rain event. Subsequently, the photographs provided by the applicant are indicative of normal conditions and any small amounts of pooled water observed in ephemeral channels are likely the result of direct precipitation.](#)

**C. Additional comments to support AJD:** [N/A](#)