



**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): 6/10/2021
 ORM Number: SWL-2021-00179
 Associated JDs: SWL-2007-00202 (May 2007)
 Review Area Location¹: State/Territory: Missouri City: Neosho County/Parish/Borough: Newton
 Center Coordinates of Review Area: Latitude 36.8652 Longitude -94.3795

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 |
| Ephemeral Channel | 1150 | linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | The lower reach of the channel within the subject property is mapped by NHD and USGS topographic quadrangle Neosho West, MO. A Corps site visit revealed the channel, which has been heavily impacted by channelization, was ephemeral, lacking an OHWM throughout most of the reach. |

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: [Title\(s\) and date\(s\)](#)

This information [Select](#). sufficient for purposes of this AJD.

Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\)](#).

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial and Other: Google Earth \(1996-2017\); Corps site visit on June 8, 2021.](#)
- Corps site visit(s) conducted on: [June 8, 2021.](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [SWL-2007-00202 \(PJD\) \(May 2007\).](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Soil Survey of Newton County, Missouri; Web Soil Survey \(soil layer accessed via National Regulatory Viewer\).](#)
- USFWS NWI maps: [NWI Maps accessed via National Regulatory Viewer on June 9, 2021.](#)
- USGS topographic maps: [Neosho West, MO \(1970, 1986, 2012, 2017\)](#)

Other data sources used to aid in this determination:

| Data Source (select) | Name and/or date and other relevant information |
|--|---|
| USGS/WBD/NHD data/maps | The National Map (NHD; topographic quad) |
| USDA Sources | N/A. |
| NOAA Sources | N/A. |
| USACE Sources | National Regulatory Viewer (NWI, LiDAR); Antecedent Precipitation Tool (APT), Version 1 |
| State/Local/Tribal Sources | N/A. |
| Other Sources | N/A. |

B. Typical year assessment(s): [APT was accessed for period corresponding to Corps site visit \(June 8, 2021; findings: dry season, normal conditions.](#)

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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C. Additional comments to support AJD: A Corps site visit on June 8, 2021, revealed the channel within the subject property is ephemeral, lacking an OHWM throughout much of the reach and supporting upland vegetation within the channel. A previous PJD conducted in May 2007 listed the channel as “a water of the U.S.”, but did not identify the flow regime (i.e., ephemeral or intermittent). A review of aerial photography between 1996 and 2017 does not show flow (or water) in the channel (15 records). Therefore, based on field indicators and supporting aerial photography, the channel represents a (b)(3) water and would not be regulated under the NWPR.