



**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): 7/2/2020

ORM Number: MVS-2014-076

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: MO City: O'Fallon County/Parish/Borough: St. Charles County

Center Coordinates of Review Area: Latitude 38.797475 Longitude -90.732561

**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
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.

<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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**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	
Tributary B	N/A.	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral stream with stormwater/runoff driven flows. No evidence of groundwater influence in this uppermost segment of the stream.
Wetland A	N/A.	acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	A field evaluation of these areas found the three criteria for a wetland are present, however in an unusual location in the landscape. A review of office resources found these features to have been stormwater features excavated in uplands.
Wetland B	N/A.	acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	A field evaluation of these areas found the three criteria for a wetland are present, however in an unusual location in the landscape. A review of office resources found these features to have been stormwater features excavated in uplands.
Erosional Drainage	N/A.	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The feature was composed of high gradient erosional features with not defined bed and bank as the area served as an outlet for the wetland areas.

**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.

<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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- Information submitted by, or on behalf of, the applicant/consultant: [SCI – Bryan Road Site – Flavan Tract Wetland and Waterbody Delineation – November 2018](#)  
This information is 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: Google Earth Aerial Photography dated 1990-2019](#)
- Corps site visit(s) conducted on: [February 26, 2019](#)
- 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: [Web Soil Survey – queried 7/2/2020](#)
- USFWS NWI maps: [US-NWI Google Earth layer – queried 7/2/2020](#)
- USGS topographic maps: [1:24,000 & O’Fallon](#)

**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):** [Field assessments completed by SCI in March 2018 and USACE in February 2019 occurred during periods of mild wetness, greater than that of a typical. During the USACE site visit in February 2019 flowing conditions were observed in the tributary that appeared to be only as a result of the rainfall that had occurred prior to and periodically during the site visit.](#)

**C. Additional comments to support AJD:** [No waters are mapped within the review area on the NWI layer and USGS Topographic maps show gently sloped upper drainage collection patterns but no defined waters nor mapped ponds. A site delineation of wates by the applicant’s agent was completed in March 2018, submitted to the USACE in November 2018, and identified Tributary B as a ephemal stream. This suggested determination was confirmed by the review of office resources and by a site visit completed by the USACE in February 26, 2019. Its location in the uppermost portions of the watershed, has approximately 17.5 acres of contributing watershed area, and without steeper slopes or gradients present on the site, the tributary slowly gains definition and at this location in the watershed the flows are entirely stormwater driven.](#)

[On the site are two man-made depressions, that were found to have wetland characteristics in accordance with the 1987 Corps of Engineers Wetland Delineation Manual & Midwest Supplement and are identified in the agent’s delineation as Wetland A and Wetland B. These wetlands have less than a 2.5 acre contributing watershed with no groundwater influence observed on site. The soils mapped at this location in the USDA Soil Survey is Herrick silt loam, 2 to 5% slopes, that is not a hydric soil and the wetland areas occur at a highly unusal location in a topographic high point in the area. A review of Google Earth aerial photography the wetland areas appear to have been excavated in an upland area sometime between 2005 and 2007 in associated with earthwork that was being completed on site to cut \(near wetlands\) and fill](#)



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(at eastern subdivision). Their likely function was a sediment and stormwater catch basins to collect any stormwater from transporting sediment off-site, onto White Magnolia Drive, as some grading was occurring on the site at the time. These stormwater ponds have a non-jurisdictional ditch connecting these features to jurisdictional waters, at this location Tributary A. The feature has a steep gradient, lack of consistent bed and bank features, and appears to have eroded from the lack of a defined outfall structure from the basins. The artificial nature and construction in uplands supports Wetland A and Wetland B being considered a categorically excluded water/feature (b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.