



**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): 4/15/2021

ORM Number: MVS-2020-332

Associated JDs: NA

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

Center Coordinates of Review Area: Latitude 38.8615 Longitude -90.9092

**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
NA	NA	N/A.	N/A.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
McCoy Creek	3,453	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
T-4	1,092	Linear feet	(a)(2) intermittent tributary. Contributes

<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	
			surface water flow directly or indirectly to an (a)(1) water in a typical year.	was not flowing at time of the site visit. T-4 is a primary tributary to McCoy Creek.
Spring 1	50	Linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	This is a spring that is located near Spring #2, within the floodplain of McCoy Creek and connects to McCoy Creek.
Spring 2	350	Linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Spring near Spring #1 that is located within the floodplain of McCoy Creek and connects to McCoy Creek.

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	
NA	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	
Wetland 2	0.12	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.	Emergent wetland within the floodplain of McCoy Creek. Receives ground and surface water from a broken pipe that contains spring flow (Spring 2), which then flows into McCoy Creek.

**D. Excluded Waters or Features**



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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	
T-1	2,474	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Headwater channel that is 2-3 feet wide at the OHWM. This channel eventually flows into T-4. No pools, flow or riffles present at the time of the site visit.
T-2	531	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Begins at the confluence of two hillside swales. The channel is approximately 2 feet wide at the OHWM. Gravel substrate. No flow present at time of site visit. This channel flows into T-1.
T-3	790	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Side tributary to T-1 that is 3 feet wide at the OHWM. No flow present at time of the site visit.
T-5	347	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Begins at the confluence of two hillside swales. Channel is 2-4 feet wide at the OHWM. No flow present at time of the site visit. Flows into T-4.
T-6	232	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary to T-4 that drains a small portion of the site east, beneath North Point Prairie Road. This channel is approximately 2-3 feet wide at the OHWM. No flow or pooling present at time of site visit.
T-7	486	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	This is a hillside tributary to McCoy Creek. Channel is approximately 2-3 feet wide at the OHWM. No flow or pooling present at time of the site visit.
T-8	59	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Hillside drainage to McCoy Creek. Channel is approximately 3 feet wide at the OHWM. No flow or pooling present at the time of the site visit.
Pond 1	0.39	acres	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake	This is a stock pond utilized for cattle and is located at the highest point within the landscape. No stream or drainageway connections to the pond.

<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
			or pond is not an impoundment of a jurisdictional water that meets (c)(6).	
Pond 2	0.88	acres	(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).	Hillside pond surrounded by trees. Pond was formed by placing a dam across the low side of a hillside swale which is connected to T-2 downstream of this location.
Pond 3	0.38	acres	(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 breached in 2012-2013. The former pond is located on a grassed hillside. Some shallow water was pooling in the middle of the area at the time of the site visit. It is located off channel of T-4.
Wetland 1	0.14	acres	(b)(1) non-adjacent wetland	A hillside seep located near the upper length of T-1, an ephemeral stream channel.
Wetland 3	0.03	Acres	(b)(1) non-adjacent wetland	An emergent wetland within the floodplain of McCoy Creek. It receives surface water from an ephemeral hillside drainage.

**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: [Waters of the U.S. Delineation: 200-Acre Rolwes/Hynes Tract, submitted by Mr. Jonathan Baer of Brookside Environmental Services, LLC](#)

This information is sufficient for purposes of this AJD.

Rationale: [Delineation, data sheets, maps and photos were all present within the submittal](#)

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



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- Photographs: **Aerial:** Provided in the November 29, 2020 submittal by Brookside Environmental Services
- Corps site visit(s) conducted on: **The Corps and Brookside** visited the site on 7/21/20
- 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: **Provided as Figure 3** in the 11-29-20 submittal by Brookside
- USFWS NWI maps: **Provided as Figure 4** in the 11-29-20 submittal by Brookside
- USGS topographic maps: **Provided as Figure 1** in the 11-29-20 submittal by Brookside

**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	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

**B. Typical year assessment(s):** NA

**C. Additional comments to support AJD:** The project site is a 200-acre site. It consists of grassed pasture land and wooded areas. A spring, two farm ponds and numerous ephemeral streams are located on the site. In addition, McCoy Creek, a perennial stream and an unnamed intermittent stream to McCoy Creek are also located onsite.

T-4 is the intermittent tributary within the project site that flows into McCoy Creek. Onsite tributaries that flow into T-4 are: T-1, T-2, T-3 and T-5. Furthermore, tributaries T-6, T-7 and T-8 flow into McCoy Creek.

McCoy Creek flows for 6 miles before it joins Big Creek and the Cuivre River. The Cuivre River flows to the Mississippi River.