



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, ST. LOUIS DISTRICT  
1222 SPRUCE STREET  
ST. LOUIS, MISSOURI 63103

RD

31 July 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023),<sup>1</sup> MVS-2025-422

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.<sup>2</sup> AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.<sup>3</sup>

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),<sup>4</sup> the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

1. SUMMARY OF CONCLUSIONS.

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<sup>1</sup> While the Revised Definition of "Waters of the United States"; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

<sup>2</sup> 33 CFR 331.2.

<sup>3</sup> Regulatory Guidance Letter 05-02.

<sup>4</sup> USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

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- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).
  - i. MVS-2025-422 MG-STR-030 (Water Feature 1) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - ii. MVS-2025-422 MG-STR-040 (Water Feature 2) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - iii. MVS-2025-422 MG-STR-140 (Water Feature 3) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - iv. MVS-2025-422 MG-STR-170 (Water Feature 4) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - v. MVS-2025-422 MG-STR-190 (Water Feature 5) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - vi. MVS-2025-422 MG-STR-210 (Water Feature 6) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - vii. MVS-2025-422 MG-STR-220 (Water Feature 7) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - viii. MVS-2025-422 MG-STR-230 (Water Feature 8) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - ix. MVS-2025-422 MG-STR-260 (Water Feature 9) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - x. MVS-2025-422 MG-STR-290 (Water Feature 10) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - xi. MVS-2025-422 MG-STR-300 (Water Feature 11) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - xii. MVS-2025-422 MG-STR-320 (Water Feature 12) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - xiii. MVS-2025-422 MG-STR-330 (Water Feature 13) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - xiv. MVS-2025-422 MG-STR-340 (Water Feature 14) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - xv. MVS-2025-422 MG-STR-400 (Water Feature 15) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - xvi. MVS-2025-422 MG-STR-440 (Water Feature 16) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - xvii. MVS-2025-422 MG-STR-460 (Water Feature 17) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - xviii. MVS-2025-422 MG-STR-480 (Water Feature 18) – Non-Jurisdictional, Section 404, 20 Linear Feet
  - xix. MVS-2025-422 MG-STR-520 (Water Feature 19) – Non-Jurisdictional, Section 404, 20 Linear Feet

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- xx. MVS-2025-422 MG-STR-580 (Water Feature 20) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxi. MVS-2025-422 MG-STR-600 (Water Feature 21) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxii. MVS-2025-422 MG-STR-630 (Water Feature 22) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxiii. MVS-2025-422 MG-STR-675 (Water Feature 23) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxiv. MVS-2025-422 MG-STR-677 (Water Feature 24) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxv. MVS-2025-422 MG-STR-705 (Water Feature 25) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxvi. MVS-2025-422 MG-DF-010 (Water Feature 26) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxvii. MVS-2025-422 MG-DF-020 (Water Feature 27) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxviii. MVS-2025-422 MG-DF-030 (Water Feature 28) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxix. MVS-2025-422 MG-DF-040 (Water Feature 29) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxx. MVS-2025-422 MG-DF-050 (Water Feature 30) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxxi. MVS-2025-422 MG-DF-060 (Water Feature 31) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxxii. MVS-2025-422 MG-DF-070 (Water Feature 32) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxxiii. MVS-2025-422 MG-DF-080 (Water Feature 33) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxxiv. MVS-2025-422 MG-DF-090 (Water Feature 34) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxxv. MVS-2025-422 MG-DF-100 (Water Feature 35) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxxvi. MVS-2025-422 MG-DF-120 (Water Feature 36) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxxvii. MVS-2025-422 MG-DF-130 (Water Feature 37) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxxviii. MVS-2025-422 MG-DF-150 (Water Feature 38) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xxxix. MVS-2025-422 MG-DF-160 (Water Feature 39) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xl. MVS-2025-422 MG-DF-290 (Water Feature 40) – Non-Jurisdictional, Section 404, 20 Linear Feet

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- xli. MVS-2025-422 MG-DF-480 (Water Feature 41) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xlvi. MVS-2025-422 MG-DF-550 (Water Feature 42) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xlvi. MVS-2025-422 MG-DF-570 (Water Feature 43) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xlvi. MVS-2025-422 MG-DF-590 (Water Feature 44) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xlvi. MVS-2025-422 MG-DF-600 (Water Feature 45) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xlvi. MVS-2025-422 MG-DF-630 (Water Feature 46) – Non-Jurisdictional, Section 404, 20 Linear Feet
- xlvi. MVS-2025-422 MG-DF-640 (Water Feature 47) – Non-Jurisdictional, Section 404, 20 Linear Feet

## 2. REFERENCES.

- a. “Revised Definition of ‘Waters of the United States,’” 88 FR 3004 (January 18, 2023) (“2023 Rule”)
- b. “Revised Definition of ‘Waters of the United States’; Conforming” 88 FR 61964 (September 8, 2023)
- c. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)

- 3. REVIEW AREA. The Review Area is an approximately 18.4-mile stretch, with the northern end of the project at 37.94008, -89.644493 and the southern end of the project at 37.708358, -89.504968.
- 4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The nearest downstream TNW to the Review Area is the Mississippi River. The Mississippi River has a navigation channel maintained by the Army Corps of Engineers.
- 5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. The waters within the review area flow through numerous water features to reach the Mississippi River.

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6. SECTION 10 JURISDICTIONAL WATERS<sup>5</sup>: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.<sup>6</sup> N/A
7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
  - a. Traditional Navigable Waters (TNWs) (a)(1)(i): N/A
  - b. The Territorial Seas (a)(1)(ii): N/A
  - c. Interstate Waters (a)(1)(iii): N/A
  - d. Impoundments (a)(2): N/A
  - e. Tributaries (a)(3): N/A
  - f. Adjacent Wetlands (a)(4): N/A
  - g. Additional Waters (a)(5): N/A

## 8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

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<sup>5</sup> 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

<sup>6</sup> This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

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- a. Describe aquatic resources and other features within the review area identified in the 2023 Rule as amended as not “waters of the United States” even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).<sup>7</sup> N/A
- b. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

MVS-2025-422 Water Features 1-47 – Water Features 1-47 are non-rpw features which lack a defined bed and bank.

9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.

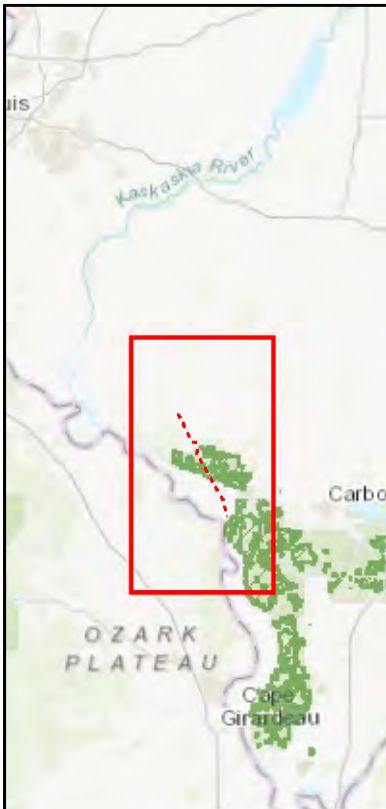
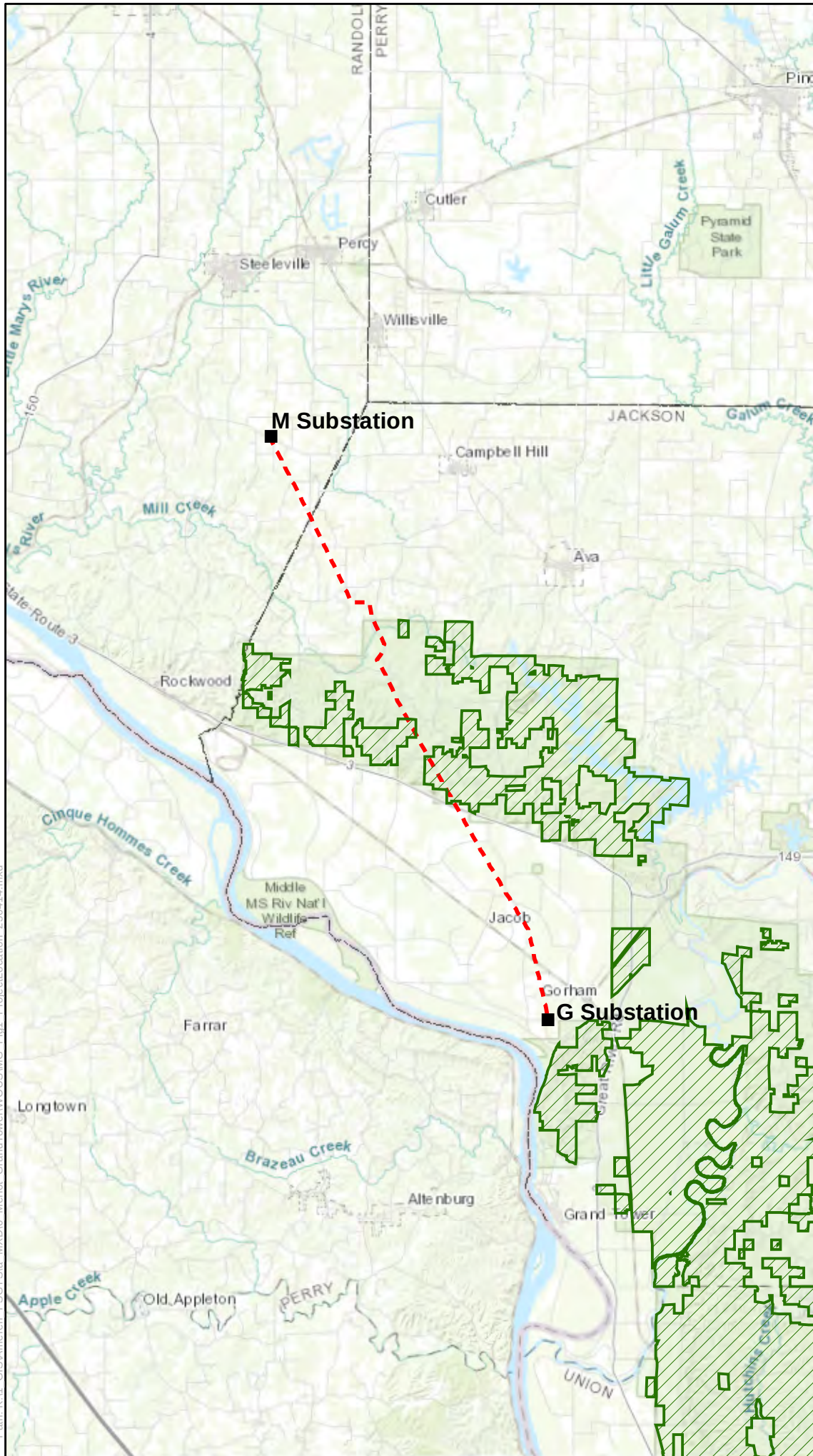
- a. Wetland Delineation Report, submitted 8 July 2025

10. OTHER SUPPORTING INFORMATION. N/A

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR’s structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.

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<sup>7</sup> 88 FR 3004 (January 18, 2023)



**Area of Detail**

**Legend**

- Substation
- - - Transmission Centerline
- ▨ Shawnee National Forest
- ▭ County Boundary



**Figure 1**  
**Project Location**

**Line 1636 M to G**  
**Transmission**  
**Rebuild Project**