



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

CEMVS-RD

May 4, 2026

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),¹ MVS-2026-00161.

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.² 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.³

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),⁴ the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

¹ 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.

² 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ 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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1. SUMMARY OF CONCLUSIONS.

- 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).

Wetland ID	Wetland Type	Area of Wetland Delineated (acre)	Jurisdictional Status
Wetland-A	PFO	2.67	Non-jurisdictional
Wetland-A	PEM	.42	Non-jurisdictional
TOTAL:		3.09	

Stream ID	Stream Type	Length of Stream Delineated (feet)	Stream Width at OHWM (feet)	Jurisdictional Status
Channel A	Non-RPW	975	5	Non-jurisdictional
Channel B	Non-RPW	1400	3	Non-jurisdictional
TOTAL:		2375		

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)
- d. Memorandum To The Field Between The U.S. Department Of The Army, U.S. Army Corps Of Engineers And The U.S. Environmental Protection Agency Concerning The Proper Implementation Of 'Continuous Surface Connection' Under The Definition Of "Waters Of The United States" Under The Clean Water Act" (March 12, 2025).

3. REVIEW AREA. The review area is approximately 263 acres in size and consists primarily of agricultural and forested lands in St. Clair County, Illinois. The geographic coordinates for the site are Latitude 38.5191°, Longitude -90.1765°.

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4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The Mississippi River is the nearest TNW.
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. Aquatic features on site generally drain south towards unnamed tributaries of Fish Lake and eventually to Palmer Creek, which flows into the Mississippi River through a pump station. The Mississippi River is a Section 10 water throughout the St. Louis District Area of Review.
6. SECTION 10 JURISDICTIONAL WATERS⁵: 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 10.⁶ 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

⁵ 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.

⁶ 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.

- 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

- 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).⁷ 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).

Channel A is a 1st order non-relatively permanent water that is approximately 2,895 linear feet in total length, beginning just east of Illinois State Highway 3, flowing through the existing agricultural fields and then through a culvert continuing along the west side of Industrial Drive to the confluence with an unnamed tributary to Fish Lake/Palmer Creek. Approximately 975 linear feet of Channel A is within the review area. The stream channel has defined bed and bank features and ranges from 3 to 5 feet wide at the OHWM within the majority of review area. The depth at the OHWM is approximately 3 feet within the 975 linear feet of delineated length within the review area. The stream exits the review area flowing in a southerly direction towards Industrial Drive. At the exit location of the review area, the channel is plugged with a sediment deposit and vegetation that has obstructed normal flows. The channel loses the defined bed and bank features from the sediment deposit location continuing further into the Interstate 255 and Industrial Drive roadside ditch. Furthermore, the channel does not exhibit characteristics consistent with relatively permanent water, i.e. dry stream bed, and lacks a continuous bed and bank from the Interstate 255 culvert location to the confluence with the 2nd order stream.

Approximately 65 percent of Channel A (1897-feet) is a non-relatively permanent water feature. Greater than 50 percent of the total stream reach is considered

⁷ 88 FR 3004 (January 18, 2023)

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non-relatively permanent and therefore the entirety of Channel A is non-jurisdictional.

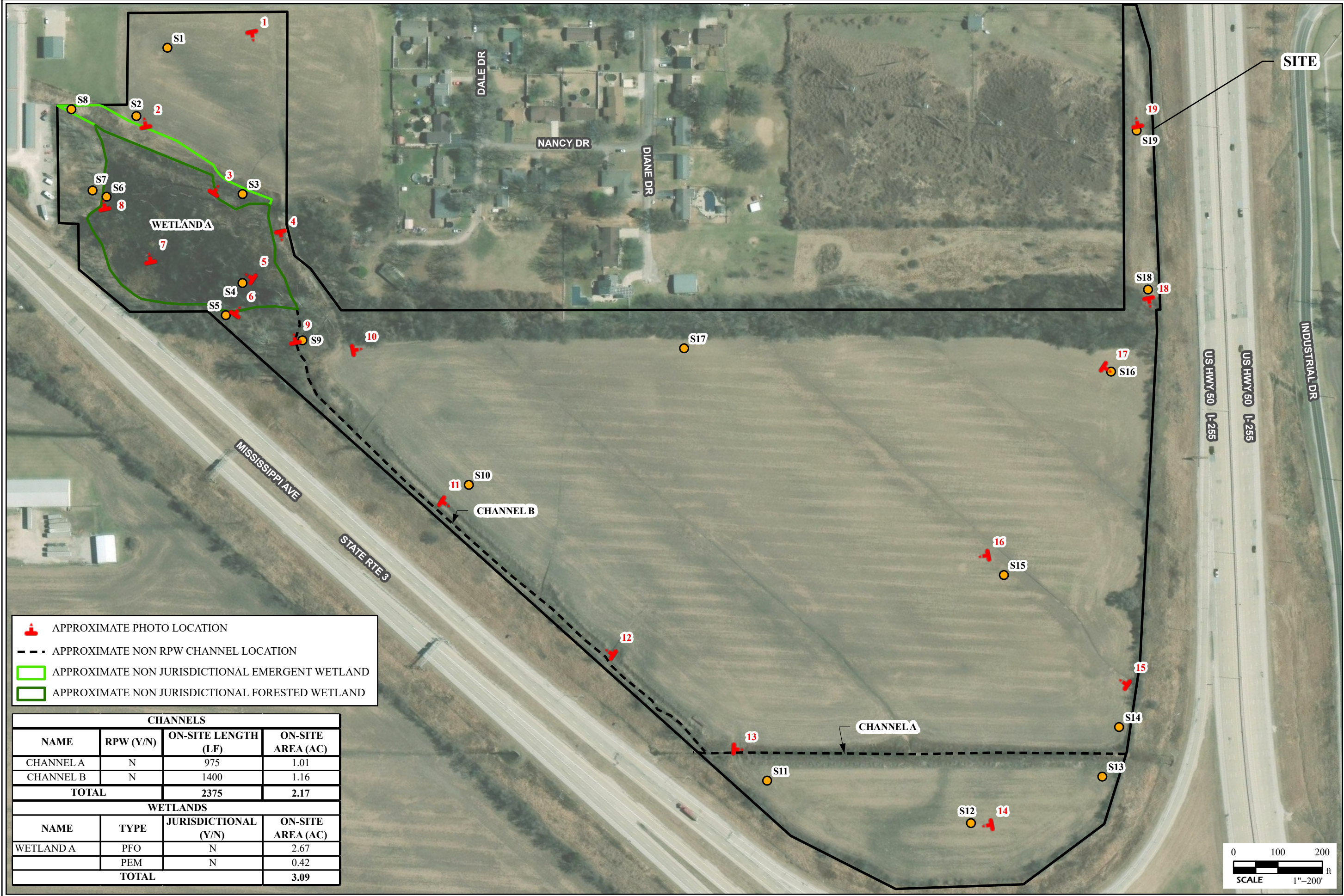
Channel B is non-relatively permanent water (1,400') characterized by a defined bed and bank with no flow observed on site. This stream does not have a ground water connection and flow is in direct response to precipitation events. The channel appears to have been recently excavated, and dredge material was side cast along the eastern top of bank within the agricultural field.

Wetland A (PFO/PEM) is not considered (a)(4) an adjacent wetland since it does not have a continuous surface connection to an (a)(1), nor a relatively permanent (a)(2), or (a)(3) water.

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 and Waterbody Delineation Report performed by SCI, dated January 13, 2025.
 - b. USACE Site Visit, March 20, 2026 and April 21, 2026
 - c. Illinois Statewide LiDAR DEM WGS Hillshade, accessed April 20, 2026
 - d. National Wetlands Inventory, accessed April 20, 2026
 - e. Antecedent Precipitation Tool, accessed April 20, 2026
 - f. National Regulatory Viewer, accessed April 20 and 21, 2026
 - g. Historic aerals, clearinghouse.isgs.illinois.edu, accessed April 20, 2026

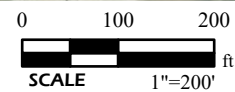
10. OTHER SUPPORTING INFORMATION.

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.



- APPROXIMATE PHOTO LOCATION
- APPROXIMATE NON RPW CHANNEL LOCATION
- APPROXIMATE NON JURISDICTIONAL EMERGENT WETLAND
- APPROXIMATE NON JURISDICTIONAL FORESTED WETLAND

CHANNELS			
NAME	RPW (Y/N)	ON-SITE LENGTH (LF)	ON-SITE AREA (AC)
CHANNEL A	N	975	1.01
CHANNEL B	N	1400	1.16
TOTAL		2375	2.17
WETLANDS			
NAME	TYPE	JURISDICTIONAL (Y/N)	ON-SITE AREA (AC)
WETLAND A	PFO	N	2.67
	PEM	N	0.42
TOTAL			3.09



GENERAL NOTES

AERIAL PHOTOGRAPH OBTAINED FROM ARCGIS ONLINE, WORLD IMAGERY.
DIMENSIONS AND LOCATIONS ARE APPROXIMATE; ACTUAL MAY VARY. DRAWING SHALL NOT BE USED OUTSIDE THE CONTEXT OF THE REPORT FOR WHICH IT WAS GENERATED.

PROJECT NAME

KEELEY DUPO YARD AND SHOP
DUPO, ILLINOIS

WETLAND DELINEATION &
AERIAL PHOTOGRAPH

JOB NUMBER

2025-1975.30

FIGURE DATE

04/27/2026

DRAWN BY

CJD

CHECKED BY

MSH

FIGURE

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