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): 9/8/2020
ORM Number: MVS-2003-8920
Associated JDs: N/A
Review Area Location[1]: State/Territory: Missouri City: Moscow Mills County/Parish/Borough: Lincoln
Center Coordinates of Review Area: Latitude 38.9289 Longitude -90.8843

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
- ☐ 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.	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.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Cuivre River	1,704	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Cuivre River, an (a)(2) water, has a watershed of 1,010 square miles (646,400 acres), which provide substantial run-off to contribute perennial flow to the Missouri River, an (a)(1) water.

[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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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Crooked Creek	4,945	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Crooked Creek was observed with flowing water during both the delineation and USACE site visit. The (a)(2) water has a watershed of 19.6 square miles (12,544 acres), which provide substantial run-off to contribute perennial flow to the Missouri River, an (a)(1) water, through the Cuivre River.

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.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland B	2.33	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland B begins near the termination of two ephemeral tributaries, near the limits of the Crooked Creek floodplain, and extends downslope to Crooked Creek, an (a)(2) water. Wetland characteristics become less apparent moving upslope where the duration of inundation is shorter. The wetland drains directly into Crooked Creek at its north end.
Wetland A	0.10	acre(s)	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	Evidence of inundation from Crooked Creek, an (a)(2) water was present during the site visit conducted on 05/08/2020. Wetland A was fully inundated, which occurred immediately following a five-day period of precipitation, which accumulated 0.86-inches. The APT stated Normal Conditions were present for the Wet Season.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Unnamed Tributaries #1-3	2,616	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Each of the three tributaries identified within the review area contain less than 50-acre watersheds and inconsistently exhibit defined bed and back and OHWM characteristics. Water was present in the tributaries at the time of the delineation due to precipitation the preceding 5-days; whereas no water flowing or pooled was present on 08/25/2020.

[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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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: Wetland Delineation Report and Development Plans completed/submitted by On-Site Soils, Inc. Exhibits detail the review area for this AJD.
This information is sufficient for purposes of this AJD.
Rationale: Each water feature was appropriately documented and surveyed during the delineation field efforts. Results of the draft delineation were reviewed by USACE during a site visit performed on 08/25/2020. The delineation was finalized following the joint site evaluation.

☐ Data sheets prepared by the Corps: Data sheets were incorporated in the submitted delineation.

☒ Photographs: Aerial and Other: Historic Aerials, USDA NAIP Imagery, Google Earth, Site Photographs

☒ Corps site visit(s) conducted on: 08/25/2020

☒ Previous Jurisdictional Determinations (AJDs or PJDs): Rapanos JD (old) performed in '01, '03, '05

☒ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B*.

☒ USDA NRCS Soil Survey: Lincoln County, Missouri

☒ USFWS NWI maps: 1980's; 1:58,000 scale; Color Infrared Source

☒ USGS topographic maps: Troy, MO Quad; 1:24,000, 1972 (1973 revision)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS topoView; 1:24,000 Scale
USDA Sources	USDA NRCS Web Soil Survey – Lincoln County (Obtained 08/24/20)
NOAA Sources	N/A.
USACE Sources	District Regulatory Viewer
State/Local/Tribal Sources	MU Commercial Agriculture Automated Weather Station Network
Other Sources	USGS NHD Data, LiDAR/Contour Data

B. Typical year assessment(s): The Antecedent Precipitation Tool (APT) was used to assess conditions for the two documented site visits compared to 30 years of data in NOAA's Daily Global Historical Climatology Network. Normal Conditions were present during the delineation field efforts on May 08, 2020; the work was performed following a five-day period of precipitation (0.86 inches). Wetter than Normal Conditions were present during the USACE site visit on August 25, 2020. The confirmed "Wetter than Normal" conditions and the lack of water in the identified tributaries during the 08/25/2020 visit supports the non-jurisdictional, excluded (b)(3) ephemeral feature determinations. Additionally, the "Normal" conditions present during the wetland delineation reinforces the ephemeral determinations. The jurisidictional determination for Wetland B, which was observed being inundated by an (a)(2) water is also supported by the APT results.

C. Additional comments to support AJD: As Wetland B was determined to be jurisdictional based solely on being inundated by an (a)(2) water, the jurisdictional determination was coordinated with EPA Region 7.