



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): 31-MAR-2021

ORM Number: MVK-2017-00111-TB

Associated JDs: N/A or ORM numbers and identifiers (e.g. HQS-2020-00001-MSW-MITSITE)

Review Area Location¹:

State/Territory: MS City: Pearl County/Parish/Borough: Rankin County

Center Coordinates of Review Area: Latitude 32.245401 Longitude -90.144161

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)²

§ 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)³

(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

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 independent 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.

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
MVK-2017-111 Ditch	1217 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)	These ditches were created in wetlands to drain the adjacent development towards the center of the property where it only flows after a rainfall event north through a culvert under Interstate Drive and then continues through a series of man-made drainage/stormwater ditches for approximately 2.5 miles before converging with Conway Slough. These ditches do not satisfy any of the flow requirements to be considered tributaries or other jurisdictional features
MVK-2017-111 Open Water	5.4 acres	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	This feature is made up of the old remnant channel of the historic tributary. Following the construction of the Richland Creek Levee and the associated drainage alterations made up stream of the subject property have cut-off the flow and caused water to accumulate in the channel where it flows north through a culvert only after a rainfall under Interstate Drive and then continues through a series of man-made drainage/stormwater ditches for approximately 2.5 miles before converging with Conway Slough.
MVK-2017-111 Wetland 1	0.6 acres	(b)(1) Non-adjacent wetland	Dating back to 1949, the property was primarily utilized as a small-scale agricultural and residential property. There was a tributary that traversed the property draining southward to Richland Creek. During the late 1960's, the Richland Creek Levee was constructed along the south boundary of the property. The construction of the levee was the beginning of a sequence of events that has altered the flow pattern of the project area. The levee construction cut off southern flow, which caused the southern most portion of the property, adjacent to the Richland Creek Levee, to accumulate water and acted as a sump which caused wetlands to develop across the landscape and the old tributary channel to become open water habitat. During the 1980's, commercialization of the general area began to increase. The commercialization and associated roads changed the flow patterns by re-routing the historical tributary upstream of the subject property, westward towards Conway Slough where it continues to the Pearl River. The subject property now only flows after a rainfall event north through a culvert under Interstate Drive and then continues through a series of man-made drainage/stormwater ditches for approximately 2.5 miles before converging with Conway Slough. These ditches do not satisfy any of the flow requirements to be considered tributaries or other jurisdictional features. As such the identified features within the subject property are excluded and non-jurisdictional.

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 independent 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.

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

MVK-2017-111 Wetland 2	37.9 acres	(b)(1) Non-adjacent wetland	Dating back to 1949, the property was primarily utilized as a small-scale agricultural and residential property. There was a tributary that traversed the property draining southward to Richland Creek. During the late 1960's, the Richland Creek Levee was constructed along the south boundary of the property. The construction of the levee was the beginning of a sequence of events that has altered the flow pattern of the project area. The levee construction cut off southern flow, which caused the southern most portion of the property, adjacent to the Richland Creek Levee, to accumulate water and acted as a sump which caused wetlands to develop across the landscape and the old tributary channel to become open water habitat. During the 1980's, commercialization of the general area began to increase. The commercialization and associated roads changed the flow patterns by re-routing the historical tributary upstream of the subject property, westward towards Conway Slough where it continues to the Pearl River. The subject property now only flows after a rainfall event north through a culvert under Interstate Drive and then continues through a series of man-made drainage/stormwater ditches for approximately 2.5 miles before converging with Conway Slough. These ditches do not satisfy any of the flow requirements to be considered tributaries or other jurisdictional features. As such the identified features within the subject property are excluded and non-jurisdictional.
---------------------------	------------	-----------------------------	--

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: *Title(s) and date(s).*

☐ This information (*is/is not/is and is not*) 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: (*NA, aerial, other, aerial and other*) *Title(s) and/or date(s).*

☐ Corps Site visit(s) conducted on: *Date(s).*

☒ Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s).* *MVK-2017-111 May 2017*

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

☒ USDA NRCS Soil Survey: *Title(s) and/or date(s).*

☐

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 independent 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.

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

☒ USFWS NWI maps: *Title(s) and/or date(s)*.

☒ USGS topographic maps: *Title(s) and/or date(s)*.

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): N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.

C. Additional comments to support AJD: A Jurisdictional Determination was completed for this property under Rapanos in 2017. That data is being used to complete this Jurisdictional Determination under the NWPR. Under Rapanos a Preliminary JD was completed where all waters were considered to be Jurisdictional. In light of the NWPR the applicant has requested an Approved JD be completed. It has been determined through careful examination of the NWPR that all the waters previously identified on the PJD have now been determined to be Excluded under the NWPR.

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 independent 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.

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.