



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): 27-APR-2021

ORM Number: MVK-2019-00844-KB

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

Review Area Location<sup>1</sup>:

State/Territory: MS City: Olive Branch County/Parish/Borough: Marshall County

Center Coordinates of Review Area: Latitude 34.956169 Longitude -89.647901

**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
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
NWPR MVK-2019-844 Other Waters 1	815 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Based on previous determination and consultants delineation, this tributary flows more than in direct response to rainfall.
NWPR MVK-2019-844 Other Waters 2	8704 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This tributary is a large named tributary (Nonconnah Creek) of the Coldwater River and flows year round.

<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 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.

<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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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
NWPR MVK-2019-844 Pond 1	4.3 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This is an impoundment of NWPR MVK-2019-844 Other Waters 1 and as such is a jurisdictional tributary that contributes flow to an a1-a3 water

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

## D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
NWPR MVK-2019-844 Other Waters 3	940 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Based on previous determination and consultants delineation this stream has been determined to only flow in response to rainfall.
NWPR MVK-2019-844 Other Waters 4	570 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Based on previous determination and consultants delineation this stream has been determined to only flow in response to rainfall.
NWPR MVK-2019-844 Other Waters 5	1389 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Based on previous determination and consultants delineation this stream has been determined to only flow in response to rainfall.
NWPR MVK-2019-844 Pond 2	1.3 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 is an impoundment of an excluded ephemeral drain and does not contribute flow in a typical year to a downstream a1-a3 water.
NWPR MVK-2019-844 Pond 3	0.11 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 excavated in uplands and has no tributary into or out of it
NWPR MVK-2019-844 Pond 4	8.5 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 excavated in uplands and has no tributary into or out of it

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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: *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-2019-844 December 9, 2019*

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

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

☒ 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:** JD was completed for this site on December 9, 2019 under Rapanos. This request is for a JD under the NWPR.

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

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