



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): 12-JAN-2021
 ORM Number: MVR-2021-00071-AJF
 Associated JDs: N/A or ORM numbers and identifiers (e.g. HQS-2020-00001-MSW-MITSITE)
 Review Area Location¹:
 State/Territory: IA City: Waukee County: Dallas County
 Center Coordinates of Review Area: Latitude 41.57799 Longitude -93.855201

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
WUS 4	1380 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	WUS 4 is known as Fox Creek – A perennial A2 waterway that flows into Sugar Creek, which then flows to the Raccoon River. The Raccoon River flows to the Des Moines River, an A1 tributary.
WUS 5	1395 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	WUS 5 is a perennial tributary that becomes Sugar Creek. Sugar Creek (A2) flows to the Raccoon River which flows to the Des Moines River (A1).
WUS 5A	1995 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	WUS 5A flows into WUS 5. Both are A2 tributaries that become Sugar Creek. This flows to the Raccoon River, which flows to the Des Moines River (A1)

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.

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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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WUS 6	840 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	WUS 6 has been identified by the wetland delineation as intermittent and meets the flow criteria of an A2 tributary.
WUS 6A	350 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	WUS 6A meets the definition of an intermittent tributary based on the wetland delineation and the criteria in the delineation. This flows to Sugar Creek (A2) which flows to the Raccoon River, which flows to the Des Moines River (A1)

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
Pond 2	0.8 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	Pond 2 was created by an impoundment of WUS 6 and 6A. Intermittent flow into the pond was demonstrated in the wetland delineation. This pond was built when WUS 6 was impounded and was jurisdictional at that time.

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
WL 10	0.3 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 10 was identified as abutting on at least one side by the wetland delineation. It abuts WUS 6A.
WL 5	1.34 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 5 is part of a larger wetland complex that continues to the other side of Interstate 80 to the south. Wetland 5 discharges water into a box culvert that flows under the highway. It emerges as an intermittent tributary that flows through another wetland complex before an identifiable channel is observed. The tributary flows to Fox Creek, an A2 water. Fox Creek flows to the Raccoon River, another A2, perennial tributary. The Raccoon River then flows to the Des Moines River, an A1 Navigable Waterway.
WL 8	1.66 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 8 abuts WUS 5. This is clearly demonstrated in the wetland delineation.
WL 8A	3.84 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 8A abuts WUS 5 and 5A. This is demonstrated by the wetland delineation.
WL 9	0.21 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 9 abuts WUS 6. This was demonstrated by the wetland delineation.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Pond 1	0.6 acres	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) sub-categories	Pond 1 was a temporary construction best management practice to catch sediment from a nearby construction project. It was excavated in an upland and upon the completion of the project, it was restored. This is a non-jurisdictional feature.
WL 1	0.28 acres	(b)(1) Non-adjacent wetland	Wetland was the result of poorly graded site in upland that collected water during construction.

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WL 2	0.28 acres	(b)(1) Non-adjacent wetland	Wetland was the result of poorly graded site in upland that collected water during construction.
WL 3	0.13 acres	(b)(1) Non-adjacent wetland	Wetland was the result of poorly graded site in upland that collected water during construction.
WL 4	1 acre	(b)(1) Non-adjacent wetland	Wetland abuts a non A2 water that is a roadside ditch, therefore this wetland is non-abutting and non-jurisdictional.
WL 5A	0.39 acres	(b)(1) Non-adjacent wetland	Wetland 5A sits above WUS 2. WUS 2 has been identified as an erosional feature that separates it from Wetland 5. Wetland 5A is non-jurisdictional because it does not abut an A2 water.
WL 6	0.05 acres	(b)(1) Non-adjacent wetland	WL 6 abuts a non jurisdictional erosional feature. The erosional feature is non-jurisdictional, therefore WL 6 cannot abut Fox Creek.
WL 7	0.25 acres	(b)(1) Non-adjacent wetland	WL 7 is a depressional wetland that has no outlet to Fox Creek during a typical year. Wetland 7 is an isolated wetland depression.
WUS -1	260 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	WUS 1 was a created swale to allow for built up water from a construction site to drain.
WUS 2	185 feet	(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 an erosional feature that is non-jurisdictional. WUS 2 does not have flow sufficient to identify it as an intermittent stream.
WUS 4A	315 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)	WUS 4A is a roadside ditch. Roadside ditches that are not relocated tributaries are non-jurisdictional.
WUS 4B	785 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)	WUS 4B is a roadside ditch. Roadside ditches that are not relocated tributaries are 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: *Figures 5 thru 5G in Wetland Delineation dated April 8, 2015, FOTH Project 14W028.01. Wetland & WUS Delineation Report, Kettlestone Development Areas C, D and E.*

This information *is* 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: *Photos supplied in Wetland Delineation dated April 8, 2015, FOTH Project 14W028.01. Wetland & WUS Delineation Report, Kettlestone Development Areas C, D and E.*

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

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- Previous Jurisdictional Determinations (AJDs or PJDs): *CEMVR-OD-P-2015-503, Dec 1, 2016.*
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: *Figure 3 Wetland Delineation dated April 8, 2015, FOTH Project 14W028.01. Wetland & WUS Delineation Report, Kettlestone Development Areas C, D and E.*
- USFWS NWI maps: *NWI Map Figure 2 Wetland Delineation dated April 8, 2015, FOTH Project 14W028.01. Wetland & WUS Delineation Report, Kettlestone Development Areas C, D and E.*
- USGS topographic maps: *Figure 1 in Wetland Delineation dated April 8, 2015, FOTH Project 14W028.01. Wetland & WUS Delineation Report, Kettlestone Development Areas C, D and E.*

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:** N/A or provide additional discussion as appropriate.

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