



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): 11-JAN-2021

ORM Number: LRL-2020-01058-JLB

Associated JDs: N/A

Review Area Location¹:

State/Territory: KY City: Bledsoe County/Parish/Borough: Harlan County

Center Coordinates of Review Area: Latitude 36.926993 Longitude -83.340849

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
Chumney Branch Int Reach	1550 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Tributary contributes surface and ground water indirectly to a Section 10 water in a typical year by flowing into Beech Fork of Middle Fork Kentucky River, a TNW.
Old House Branch Int Reach	2650 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Tributary contributes surface and ground water indirectly to a Section 10 water in a typical year by flowing into Beech Fork of Middle Fork Kentucky River, a TNW.

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 and 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.



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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
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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Chumney Branch Eph #1	425 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Tributary with surface water that only flows in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream channel.
Chumney Branch Eph #2	175 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Tributary with surface water that only flows in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream channel.
Chumney Branch Eph Mainstem	3850 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	Surface water channel constructed with gabion in order to route runoff away from the existing fill. Therefore the channel carries water that only flows in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream channel.
Chumney Branch Pond	2.4 acres	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year	Pond that impounds surface water only. The pond is not inundated by flooding from (a)(1) – (a)(3) waters in a typical year.
Old House Branch Eph #1	550 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Tributary with surface water that only flows in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream channel.
Old House Branch Eph #2	525 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Tributary with surface water that only flows in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream channel.
Old House Branch Mainstem Eph	1450 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Tributary with surface water that only flows in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream channel.

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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: JD Request submitted by CBC Engineers on October 30, 2020

This information *is* sufficient for purposes of this AJD.

Rationale:

Data sheets prepared by the Corps: AJD Form completed for formatting on 1-4-2021.

Photographs: Google Earth Imagery 6-13-2014.

Corps Site visit(s) conducted on: Virtual site visit conducted 1-4-2021

Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s).*

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: *1:24K Bledsoe, Ky.*

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): Based on the Antecedent Precipitation Tool, the analysis concluded that although observed in the wet season, the results indicated that the data fell within normal conditions on the day of observation.

C. Additional comments to support AJD: N/A

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