



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): 06-JAN-2021

ORM Number: LRL-2020-01059-JLB

Associated JDs: N/A

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

State/Territory: KY City: Chavies County/Parish/Borough: Perry County

Center Coordinates of Review Area: Latitude 37.37116 Longitude -83.27561

**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
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

<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 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.

<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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**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
Wetland A	0.04 acres	(b)(1) Non-adjacent wetland	Feature is located on reclaimed mine land with no WOUS within the vicinity. No nexus to jurisdictional waters exists for this feature. Feature consists of a depression in the topography where low quality isolated palustrine emergent wetland has formed.
Wetland B	0.06 acres	(b)(1) Non-adjacent wetland	Feature is located on reclaimed mine land with no WOUS within the vicinity. No nexus to jurisdictional waters exists for this feature. Feature consists of a depression in the topography where low quality isolated palustrine emergent wetland has formed.
Wetland C	0.03 acres	(b)(1) Non-adjacent wetland	Feature is located on reclaimed mine land with no WOUS within the vicinity. No nexus to jurisdictional waters exists for this feature. Feature consists of a depression in the topography where low quality isolated palustrine emergent wetland has formed.
Wetland D	0.03 acres	(b)(1) Non-adjacent wetland	Feature is located on reclaimed mine land with no WOUS within the vicinity. No nexus to jurisdictional waters exists for this feature. Feature consists of a depression in the topography where low quality isolated palustrine emergent wetland has formed.
Wetland E	0.03 acres	(b)(1) Non-adjacent wetland	Feature is located on reclaimed mine land with no WOUS within the vicinity. No nexus to jurisdictional waters exists for this feature. Feature consists of a depression in the topography where low quality isolated palustrine emergent wetland has formed.
Wetland F	0.02 acres	(b)(1) Non-adjacent wetland	Feature is located on reclaimed mine land with no WOUS within the vicinity. No nexus to jurisdictional waters exists for this feature. Feature consists of a depression in the topography where low quality isolated palustrine emergent wetland has formed.
Wetland G	0.01 acres	(b)(1) Non-adjacent wetland	Feature is located on reclaimed mine land with no WOUS within the vicinity. No nexus to jurisdictional waters exists for this feature. Feature consists of a depression in the topography where low quality isolated palustrine emergent wetland has formed.

**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 Third Rock Consultants on 04-NOV-2020*

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

Rationale: *N/A*

<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.

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<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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- Data sheets prepared by the Corps: *Approved Jurisdictional Determination Form on 06-JAN-2021*
- Photographs: *Google Earth Imagery 13-JUNE-2014*.
- Corps Site visit(s) conducted on: *Date(s)*.
- 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 Krypton, 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):** N/A, typical year assessment would provide no additional information for this determination. The features included on this form are perched atop a reclaimed mountain top removal mining site with no outlet to any potential downstream waters of the U.S. The features are small depressions in the reclamation that retain surface water long enough to form low quality palustrine wetlands.
- C. Additional comments to support AJD:** Isolated wetlands formed on reclaimed mine lands that have no nexus to WOUS.

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