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): 8/6/2020
ORM Number: LRL-2019-00812-mlk
Associated JDs: N/A
Review Area Location[1]: State/Territory: Kentucky City: Shelby County/Parish/Borough: Shelbyville
Center Coordinates of Review Area: Latitude 38.229963 Longitude -85.274868

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.	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.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Per 1	3,400	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Contributes water to an (a)(1) indirectly. Perennial Stream 1 is an unnamed tributary to Bullskin Creek, which is a tributary to Clear Creek, to Brashears Creek, to Salt River, which is a direct tributary to the Ohio River (a Traditionally Navigable Water). Perennial Stream 1 is approximately six feet wide with one to three-foot bank heights. The stream substrate consists mainly of silt/clay, gravel, and cobble and has flowing water of up to one foot as observed during the agent's site visit.
Int 1	585	linear feet	(a)(2) Intermittent tributary contributes	Contributes water to an (a)(1) indirectly. This tributary is an unnamed tributary to Bullskin Creek, which is a tributary to Clear Creek, to Brashears Creek, to Salt

[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 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.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
			surface water flow directly or indirectly to an (a)(1) water in a typical year.	River, which is a direct tributary to the Ohio River (a Traditionally Navigable Water). Intermittent Stream 1 is approximately four feet wide with bank heights of one foot and substrate consisting of mainly silt/clay, sand and gravel.
Int 2	565	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Contributes water to an (a)(1) indirectly. This tributary is an unnamed tributary to Bullskin Creek, which is a tributary to Clear Creek, to Brashears Creek, to Salt River, which is a direct tributary to the Ohio River (a Traditionally Navigable Water). Intermittent Stream 2 is approximately four feet wide with bank heights of one to three feet and substrate consisting of mainly silt/clay, sand, and gravel.
Int 4	855	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Contributes water to an (a)(1) indirectly. This tributary is an unnamed tributary to Bullskin Creek, which is a tributary to Clear Creek, to Brashears Creek, to Salt River, which is a direct tributary to the Ohio River (a Traditionally Navigable Water).Intermittent Stream 4 is approximately four feet wide with bank heights of one foot and substrate consisting of mainly silt/clay, gravel, and cobble.
Int 5	200	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Contributes water to an (a)(1) indirectly. This tributary is an unnamed tributary to Bullskin Creek, which is a tributary to Clear Creek, to Brashears Creek, to Salt River, which is a direct tributary to the Ohio River (a Traditionally Navigable Water). Intermittent Stream 5 is two to three feet wide with bank heights of one to two feet and substrate consisting of mainly silt/clay, sand, gravel, and cobble.
Int 6	355	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Contributes water to an (a)(1) indirectly. This tributary is an unnamed tributary to Bullskin Creek, which is a tributary to Clear Creek, to Brashears Creek, to Salt River, which is a direct tributary to the Ohio River (a Traditionally Navigable Water). Intermittent Stream 6 is approximately four feet wide with bank heights of one foot and substrate consisting of mainly silt/clay.
Int 7	135	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Contributes water to an (a)(1) indirectly. This tributary is an unnamed tributary to Bullskin Creek, which is a tributary to Clear Creek, to Brashears Creek, to Salt River, which is a direct tributary to the Ohio River (a Traditionally Navigable Water). Intermittent Stream 7 is one to three feet wide with bank heights of one to two feet and substrate consisting of mainly silt/clay, sand, gravel, and cobble.

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
Open Water 1	1.113	acre(s)	(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.	Open Water 1 is an impoundment of Intermittent Stream 6.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wet 1	0.041	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland 1 directly abuts Intermittent Stream 2.
Wet 2	0.032	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland 2 directly abuts Perennial Stream 1.
Wet 5	0.293	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wet 5 directly abuts Intermittent Stream 6.
Wet 6	0.099	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.	Wet 6 directly abuts Open Water 1 which is an impoundment of Intermittent Stream 6
Wet 7	0.043	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland 7 directly abuts Perennial Stream 1.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Eph 1	450	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 1 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 1 is a (b)(3) water and is therefore excluded from the rule.
Eph 2	140	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 2 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 2 is a (b)(3) water and is therefore excluded from the rule.
Eph 3	200	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 3 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 3 is a (b)(3) water and is therefore excluded from the rule.
Eph 4	130	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 4 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 4 is a (b)(3) water and is therefore excluded from the rule.
Eph 5	65	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 5 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 5 is a (b)(3)

[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.

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				water and is therefore excluded from the rule.
Eph 6	20	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 6 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 6 is a (b)(3) water and is therefore excluded from the rule.
Eph 7	25	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 7 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 7 is a (b)(3) water and is therefore excluded from the rule.
Eph 8	45	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 8 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 8 is a (b)(3) water and is therefore excluded from the rule.
Eph 9	90	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 9 o only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 9 is a (b)(3) water and is therefore excluded from the rule.
Eph 10	60	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 10 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 10 is a (b)(3) water and is therefore excluded from the rule.

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Eph 11	355	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 11 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 11 is a (b)(3) water and is therefore excluded from the rule.
Eph 12	335	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 12 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 12 is a (b)(3) water and is therefore excluded from the rule.
Eph 13	50	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 13 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 13 is a (b)(3) water and is therefore excluded from the rule.
Eph 14	40	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 14 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 14 is a (b)(3) water and is therefore excluded from the rule.
Eph 15	860	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 15 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 15 is a (b)(3) water and is therefore excluded from the rule.
Eph 16	140	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 16 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				no habitat for aquatic organisms and minimal overall ecological function. Eph 16 is a (b)(3) water and is therefore excluded from the rule.
Eph 17	320	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 17 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 17 is a (b)(3) water and is therefore excluded from the rule.
Eph 18	60	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 18 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 18 is a (b)(3) water and is therefore excluded from the rule.
Eph 19	850	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 19 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 19 is a (b)(3) water and is therefore excluded from the rule.
Eph 20	395	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 20 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 20 is a (b)(3) water and is therefore excluded from the rule.
Eph 21	170	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 21 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 21 is a (b)(3) water and is therefore excluded from the rule.
Eph 22	465	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 22 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				no habitat for aquatic organisms and minimal overall ecological function. Eph 22 is a (b)(3) water and is therefore excluded from the rule.
Eph 23	50	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 23 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 23 is a (b)(3) water and is therefore excluded from the rule.
Eph 24	165	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 24 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 24 is a (b)(3) water and is therefore excluded from the rule.
Eph 25	35	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 25 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 25 is a (b)(3) water and is therefore excluded from the rule.
Eph 26	55	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 26 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 26 is a (b)(3) water and is therefore excluded from the rule.
Eph 27	80	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 27 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 27 is a (b)(3) water and is therefore excluded from the rule.
Eph 28	610	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 28 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				no habitat for aquatic organisms and minimal overall ecological function. Eph 28 is a (b)(3) water and is therefore excluded from the rule.
Eph 29	30	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 29 only contains surface water flowing or pooling in direct response to precipitation and surface runoff from immediately adjacent land and the primary function is to convey stormwater during precipitation events. It provides limited to no habitat for aquatic organisms and minimal overall ecological function. Eph 29 is a (b)(3) water and is therefore excluded from the rule.
Wet 3	0.016	acre(s)	(b)(1) Non-adjacent wetland.	Adjacent to ephemeral stream only; not adjacent to jurisdictional tributary or water; Wet 3 is a (b)(1) water and is therefore excluded from the rule.
Wet 4	0.137	acre(s)	(b)(1) Non-adjacent wetland.	Adjacent to ephemeral stream only; not adjacent to jurisdictional tributary or water; Wet 4 is a (b)(1) water and is therefore excluded from the rule.
Open Water 2	0.112	acre(s)	(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).	Pond excavated in the upland. Open water 2 is located on an upland hillside. There is not an outlet structure, spillway or channel connecting it to any other surface waters and is located approximately 60 feet from an intermittent channel. Open Water 2 is a (b)(8) water and is therefore excluded from the rule.

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: Request for JD submitted August 16, 2019; Addendum to JD submitted October 16, 2019, and PCN for NWP 29 submitted June 3, 2020
This information is sufficient for purposes of this AJD.
Rationale: N/A

☐ Data sheets prepared by the Corps: Title(s) and/or date(s).

☒ Photographs: Aerial and Other: kygisserver.ky.gov (2016) and site photographs from JD request dated, July 22-23, 2019

☒ Corps site visit(s) conducted on: September 25, 2019

☒ Previous Jurisdictional Determinations (AJDs or PJDs): LRL-2019-00812; AJD and PJD issued November 13, 2019.

- ☒ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B*.
- ☒ USDA NRCS Soil Survey: SSURGO, Shelby Co, KY (2016).
- ☐ USFWS NWI maps: Title(s) and/or date(s).
- ☒ USGS topographic maps: 1:24,000 Simpsonville, Kentucky

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): The APT was utilized for the delineation site visit (July 22, 2019). At the time of the field assessment conducted by the agent, the ephemeral streams listed in Section II.D. it was observed that there was no water in the tributaries and they were all dry. The APT data shows normal climatic conditions for this date, which indicates the hydrologic conditions observed at the site for this date would be considered “typical year” conditions.

C. Additional comments to support AJD: N/A