



**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): 10/13/2020
 ORM Number: LRL-2020-00589-mlk
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Kentucky City: Jefferson County/Parish/Borough: Louisville
 Center Coordinates of Review Area: Latitude 38.048952 Longitude -85.882994

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
Perennial Stream 1	2,395 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Perennial Stream 1 is mapped as blue-line stream on the USGS maps and is 25 feet wide with flowing water all year around at depths of one to two feet. The banks are approximately 10 foot high with a silt bottom substrate. This tributary flows into Pond Creek, which flows into the Salt River, which flows directly into the Ohio River (a Traditionally Navigable Water (a)(1)).

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.



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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
Wetland 1	2.028 acre(s)	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	Wetland 1 is mapped as a dashed blue-line stream on the USGS map, but it did not exhibit a defined channel bed and bank and was fully vegetated throughout. This linear depressional area met the parameters for hydrology, vegetation and soils for being a wetland. Based on the wetlands' location within the 100-year FEMA floodplain, it would be reasonable to assume that this wetland is inundated from flooding from Pond Creek (a)(2) water in a typical year. Pond Creek flows to the Salt River, which flows directly into the Ohio River (a Traditionally Navigable Water (a)(1)). It is likely that when high water events occur, flood waters inundate Wetland 1. Wetland 1 drains to and abuts the off-site artificial ponds, which flow through a tributary to Pond Creek. As seen in the google image dated February 25, 2018, floodwaters from Pond Creek are likely inundating the tributary from the artificial ponds, the artificial ponds and thus Wetland 1 which is above the ponds. In addition, the APT results determined that Wetland 1 would likely be inundated during a flood event and during a typical year from Pond Creek.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland 2	0.054 acre(s)	(b)(1) Non-adjacent wetland.	Adjacent to upland area only and does not flood from (a)(1) – (a)(3) waters in a typical year. This area appears to be a man-made depression with no outlet to any downstream waters. Wetland 2

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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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			is a (b)(1) waters and is therefore excluded from the rule.
Wetland 3	1.592	acre(s)	(b)(1) Non-adjacent wetland. Adjacent to upland area only and does not flood from (a)(1) – (a)(3) waters in a typical year. Wetland 3 is a (b)(1) waters and is therefore excluded from the rule.
Wetland 4	0.115	acre(s)	(b)(1) Non-adjacent wetland. Adjacent to upland area only and does not flood from (a)(1) – (a)(3) waters in a typical year; Wetland 4 is a (b)(1) waters 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: [Individual Section 404 Permit Application for LDG Development submitted in July 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 ArcGIS services \(2018\) and site photographs taken July 24 and 25, 2019](#)
- 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: [SSURGO, Jefferson Co, KY \(2008\)](#).
- USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).
- USGS topographic maps: [1:24,000-Kosmosdale, KY quad](#)

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	Weather Underground Historical Weather, accessed 7/29/2020. https://www.wunderground.com/history/daily/us/ky/louisville/KSDF

B. Typical year assessment(s): The average observed precipitation rate was 6.10 inches, which is above the 70th percentile for four consecutive years (2017-2020) that were run for the APT. The APT determined that the 70th percentile was around 4 inches of precipitation for all four years identified. The average observed precipitation was 6.10 inches, which is above the 70th percentile. In addition, 2017, 2018 and 2019 all had observed precipitation totals greater than the 70th percentile. Three of the four years showed normal or above normal wetness and are in the range of normal precipitation. Therefore,



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conditions during February of 2017, 2018 and 2019 can be considered a typical year. It was determined that Wetland 1 would likely be inundated in a flooding event and during a typical year from Pond Creek.

- C. Additional comments to support AJD:** Three days before the field work was completed the nearest weather station (Louisville International Airport) reported that approximately 0.73 inches of rain had fallen according to Weather Underground. In addition, the day of the field visits approximately 0.52 inches of rain was reported. No surface water was observed between Wetland 3, Wetland 4 and Wetland 1. Therefore Wetland 3 and 4 are not adjacent or connected to Wetland 1 and are considered (b)(1) non-adjacent wetlands.