



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): February 9, 2021

ORM Number: LRL-2020-01023

Associated JDs: N/A

Review Area Location¹:

State/Territory: KY City: County/Parish/Borough: Jefferson County

Center Coordinates of Review Area: Latitude 38.187198 Longitude -85.659244

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
Per 02 NWPR	131 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The identified perennial tributary contributes flow indirectly, via a secondary perennial tributary, to Mill Creek, a named perennial aquatic resource.

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

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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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
Eph 01 NWPR	350 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule.
Wetland 1 NWPR	0.04 acres	(b)(1) Non-adjacent wetland	Wetland 1 is a scrub-shrub wetland that lacks a direct connection to a jurisdictional tributary or water. Therefore, not adjacent to jurisdictional tributary or water: Wet 1 is a (b)(1) water and is therefore excluded from the rule.
Wetland 2 NWPR	0.2 acres	(b)(1) Non-adjacent wetland	Wetland 2 is an emergent wetland that lacks a direct connection to a jurisdictional tributary or water. Therefore, not adjacent to jurisdictional tributary or water: Wet 2 is a (b)(1) 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 Jurisdiction Determination (November 2020) and LG&E Western Kentucky Standardization Project Jefferson and Meade Counties, Kentucky Wetland Delineation Report (July 2020).*

This information is sufficient for purposes of this AJD.

Rationale: N/A

Data sheets prepared by the Corps: N/A

Photographs: aerial and other; Photographs submitted by agent titled *Appendix A Survey photographs*, USACE Regulatory Viewer with NHD and FEMA National Floodplain Hazard layer overlays, and Google Earth PRO (2018).

Corps Site visit(s) conducted on: N/A

Previous Jurisdictional Determinations (AJDs or PJDs): N/A

Antecedent Precipitation Tool: provide detailed discussion in Section III.B.

USDA NRCS Soil Survey: N/A

USFWS NWI maps: 1:2, 257 38.093 -85.869.

USGS topographic maps: 1:24k Quad Name – Louisville East.

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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):** Typical year assessment was conducted utilizing desktop tools and the submitted request for jurisdictional determination with supporting documentation. Based on the aforementioned supporting documentation, the conditions as described in *Part II: Findings* under *Section C Clean Water Act Section 404 and Section D Excluded Waters or Features* were determined to be typical.
- C. Additional comments to support AJD:** Aquatic resources identified as *Wetland 1* and *Wetland 2* appear to be connected to downstream waters via ephemeral tributaries that only convey surface flow during precipitation events with no additional hydrological inputs. The aquatic resource identified as *Eph 01 NWPR* flows as a direct response to precipitation events into a perennial tributary, identified as *Per 02 NWPR*, before reaching Mill Creek, a named perennial tributary. Based on submitted documentation and desktop tools identified aquatic resources appear to be incorporated into the existing storm water infrastructure system and serve to direct flow away from areas of development.

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