



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): November 20, 2020

ORM Number: LRL-2020-812-sea

Associated JDs: N/A

Review Area Location¹:

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

Center Coordinates of Review Area: Latitude 38.308435 Longitude -85.512105

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 |
|-------------|-------------|---|---|
| NWPR PER 1 | 840 feet | (a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | NWPR PER 1 ranges from five to seven feet wide with substrate that consists of silt, gravel, cobble, and bedrock. Flowing water was observed during the June 12, 2020 and November 6, 2020 site visits. NWPR PER 1 flows directly into an unnamed tributary (UT) of South Fork Harrods Creek to South Fork Harrods Creek to Harrods Creek to the Ohio River, a Traditional Navigable Water. |

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 |
|-------------|-------------|-----------------|------------------------------------|
|-------------|-------------|-----------------|------------------------------------|

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 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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| | | | |
|-----|-----|-----|-----|
| 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 |
|----------------|----------------|--|--|
| NWPR EPH 1 | 645 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | NWPR EPH 1 only contains surface water flowing or pooling in direct response to precipitation. During the June 12, 2020 site visit, the channel was dry. NWPR EPH 1 is a (b)(3) water and is therefore excluded from the rule. |
| NWPR EPH 2 | 80 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | NWPR EPH 2 only contains surface water flowing or pooling in direct response to precipitation. During the June 12, 2020 site visit, the channel was dry. NWPR EPH 2 is a (b)(3) water and is therefore excluded from the rule. |
| NWPR EPH 3 | 259 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | NWPR EPH 3 only contains surface water flowing or pooling in direct response to precipitation. During the June 12, 2020 site visit, the channel was dry. NWPR EPH 3 is a (b)(3) water and is therefore excluded from the rule. |
| NWPR EPH 4 | 85 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | NWPR EPH 4 only contains surface water flowing or pooling in direct response to precipitation. During the June 12, 2020 site visit, the channel was dry. NWPR EPH 4 is a (b)(3) water and is therefore excluded from the rule. |
| NWPR WET 1 | 0.048 acres | (b)(1) Non-adjacent wetland | NWPR WET 1 is physically isolated in the landscape and is not regularly inundated by or connected to an (a)(1) to (a)(3) water. |

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 Jurisdictional Determination Rollington Ridge Subdivision dated September 22, 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 (2016) and site photographs taken June 12, 2020

Corps Site visit(s) conducted on: November 6, 2020

Previous Jurisdictional Determinations (AJDs or PJDs): LRL-2019-926: AJD dated October

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28, 2019 and PJD dated October 25, 2019.

- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: SSURGO, Jefferson County, Kentucky (2008).
- USFWS NWI maps: *Title(s) and/or date(s).*
- USGS topographic maps: 1:24,000 – Anchorage and Crestwood, Kentucky Quads

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 Historic Precipitation Data (WUHPD) |

- B. Typical year assessment(s):** The Antecedent Precipitation Tool (APT) was utilized for the applicant's stream assessment date of June 12, 2020. The data shows that the assessment was conducted and photos were taken during the dry season during normal conditions.
- C. Additional comments to support AJD:** WUHPD was reviewed for June 12, 2020 and November 6, 2020 to see the precipitation totals for the days leading up to the assessment date and site visits. Data from the Louisville International Airport Station, located approximately 15 miles away from the review area, was reviewed. Prior to the June 12, 2020 site visit, 2.14 inches of rain was recorded 7 days prior to the site visit and 0.06 inches 2 days prior to the site visit. Prior to the November 6, 2020 Corps site visit, no rain was recorded 5 days prior to the site visit.

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