



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): January 04, 2021

ORM Number: LRL-2020-00911

Associated JDs: N/A

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

State/Territory: KY City: Sparta County/Parish/Borough: Owen County

Center Coordinates of Review Area: Latitude 38.635556 Longitude -84.840556

**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
Intermittent Rudder Branch	1045 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Multiple ground inputs, in addition to surface flow, were observed during a site visit conducted by Corps' personnel on December 8, 2020.

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
Pond 1	1.01 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a	The pond is located at the top of Rudder Branch, an intermittent tributary draining into the channel through a seep contributing flow downstream.

<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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		typical year	
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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))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
N/A	N/A	N/A	N/A

**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: *Owen Co JD Request Formfillable3 (10/28/2020), Pond Layout with Bing Image (10/28/20), and Pond Layout (10/28/20).*

This information *is not* sufficient for purposes of this AJD.

Rationale: *Submitted documentation incorrectly identified on-site waters and their potential jurisdictional status.*

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

Photographs: *(Aerial and other) Google Maps with terrain overlay, USACE Regulatory Viewer, and National Hydrological Data.*

Corps Site visit(s) conducted on *December 8, 2020.*

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

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

USDA NRCS Soil Survey: *Title(s) and/or date(s).*

USFWS NWI maps: <https://www.fws.gov/wetlands/Data/Mapper.html>, December 2020 .

USGS topographic maps: *1:24K Quad Name - Glencoe.*

**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.

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- B. Typical year assessment(s):** Typical year assessment was conducted utilizing desktop tools and a site visit conducted by Corps' personnel on December 8, 2020. Conditions on-site were determined to be typical based on observations and supporting desktop review conducted prior to the site visit.
- C. Additional comments to support AJD:** Aerial imagery and desktop tools identified the aquatic resources as potentially jurisdictional due to the presence of a named intermittent tributary (Rudder Branch) that flowed downstream from the identified pond into Brush Creek, a perennial tributary. A site visit was conducted to verify the desktop information on December 8, 2020. Corps' personnel walked an estimated 1,045 linear of Rudder Branch observing multiple ground inputs in the form of seeps and small shallow subsurface locations with an identifiable input and output. The intermittent tributary began to show characteristics associated with perennial streams in the downstream region near the end of the on-site review area.

The identified pond was situated at the top of Rudder Branch and based on information from the applicant would flow into the tributary via a seep. This information was consistent with the desktop review conducted prior to the site visit, which showed Rudder Branch running through the pond.

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