



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): June 1, 2021

ORM Number: LRL-2021-00063

Associated JDs: N/A

Review Area Location¹:

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

Center Coordinates of Review Area: Latitude 36.828779 Longitude -85.664061

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
SA	693 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Origin point begins at Pond C and flows south west into PFO wetland WA. WA is hydrologically connected to Pond A. Pond A flows offsite via an undefined channel and is adjacent to Skaggs Creek.
SB	726 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Origin point begins at wetland WB and flows south west into PFO wetland WA. WA is hydrologically connected to Pond A. Pond A flows offsite via an undefined channel and is adjacent to Skaggs Creek.

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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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 A	1.26 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 typical year	Pond A receives surface flow from Pond C, Wetlands WB, and WC via intermittent streams SA and SB. Pond A is adjacent and hydrologically connected to Skaggs Creek via an undefined channel.
Pond C	0.08 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 typical year	Pond C receives surface flow from adjacent drainages in the surrounding agricultural fields. Additionally, Pond C is hydrologically connected to Pond A via Intermittent Stream SA.

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
WA	0.2 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Bottomland hardwood PFO wetland at the head of Pond A. Receives surface flow from intermittent streams SA and SB.
WB	0.01 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Small headwater PEM wetland at head of intermittent stream SB.
WC	0.008 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Small headwater PEM wetland that receives flow/runoff from adjacent agricultural fields. Connect to WB->SB-WA via undefined channel surface flow.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Eph 1	351 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.
Eph 2	473 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.
Eph 3	114 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.
Eph 4	278 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.
Eph 5	367 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.
Eph 6	245 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.

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			is therefore excluded from the rule.
Eph 7	229 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.
Eph 8	189 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.
Pond B	0.05 acres	(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 B provides drainage for surrounding agricultural fields however lacks sufficient connection to traditional WOUS.
Pond D	0.19 acres	(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 D provides drainage for surrounding agricultural fields however lacks sufficient connection to traditional WOUS.
Pond E	0.09 acres	(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 E provides drainage for surrounding agricultural fields however lacks sufficient connection to traditional WOUS.
Pond F	0.05 acres	(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 F provides drainage for surrounding agricultural fields however lacks sufficient connection to traditional WOUS.
WD	0.03 acres	(b)(1) Non-adjacent wetland	Small PEM wetland area caused by drainage from agricultural fields into Pond D. Pond D lacks any connection to traditional WOUS. Wetland does not the definition of adjacent wetlands per 33 CFR 328.3 and is therefore excluded.
WE	0.03 acres	(b)(1) Non-adjacent wetland	Small PEM wetland area caused by drainage from agricultural fields into Pond F. Pond F lacks any connection to traditional WOUS. Wetland does not the definition of adjacent wetlands per 33 CFR 328.3 and is therefore excluded.

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.

X Information submitted by, or on behalf of, the applicant/consultant: Natural Resources Summary Report, E.L. Robinson Engineering, 09/28/2020, Environmental_Features_v4, May 27, 2021, and Water Resources (002), May 27, 2021.

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This information *is* sufficient for purposes of this AJD.

Rationale: *N/A*

Data sheets prepared by the Corps: *N/A*

Photographs: Aerial and other; Natural Resources Summary Report, APPENDIX C Photolog Map, E.L. Robinson Engineering, 09/28/2020.

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

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

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

USDA NRCS Soil Survey: *Natural Resources Summary Report, APPENDIX A, E.L. Robinson Engineering, 09/28/2020.*

USFWS NWI maps: *Natural Resources Summary Report, APPENDIX B, E.L. Robinson Engineering, 09/28/2020.*

USGS topographic maps: *Google Earth Pro with USGS Earth Point Topo Map layer.*

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	Regulatory viewer with 3DEP Elevation contours, DEM, and hill-shade layers.
State/Local/Tribal Sources	N/A.
Other Sources	Google Earth Pro (2014) with NHD and USGS Earth point Topo map layers and Google maps with terrain overlay.

B. Typical year assessment(s): Typical year assessment was conducted utilizing desktop tools identified above 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: *N/A*

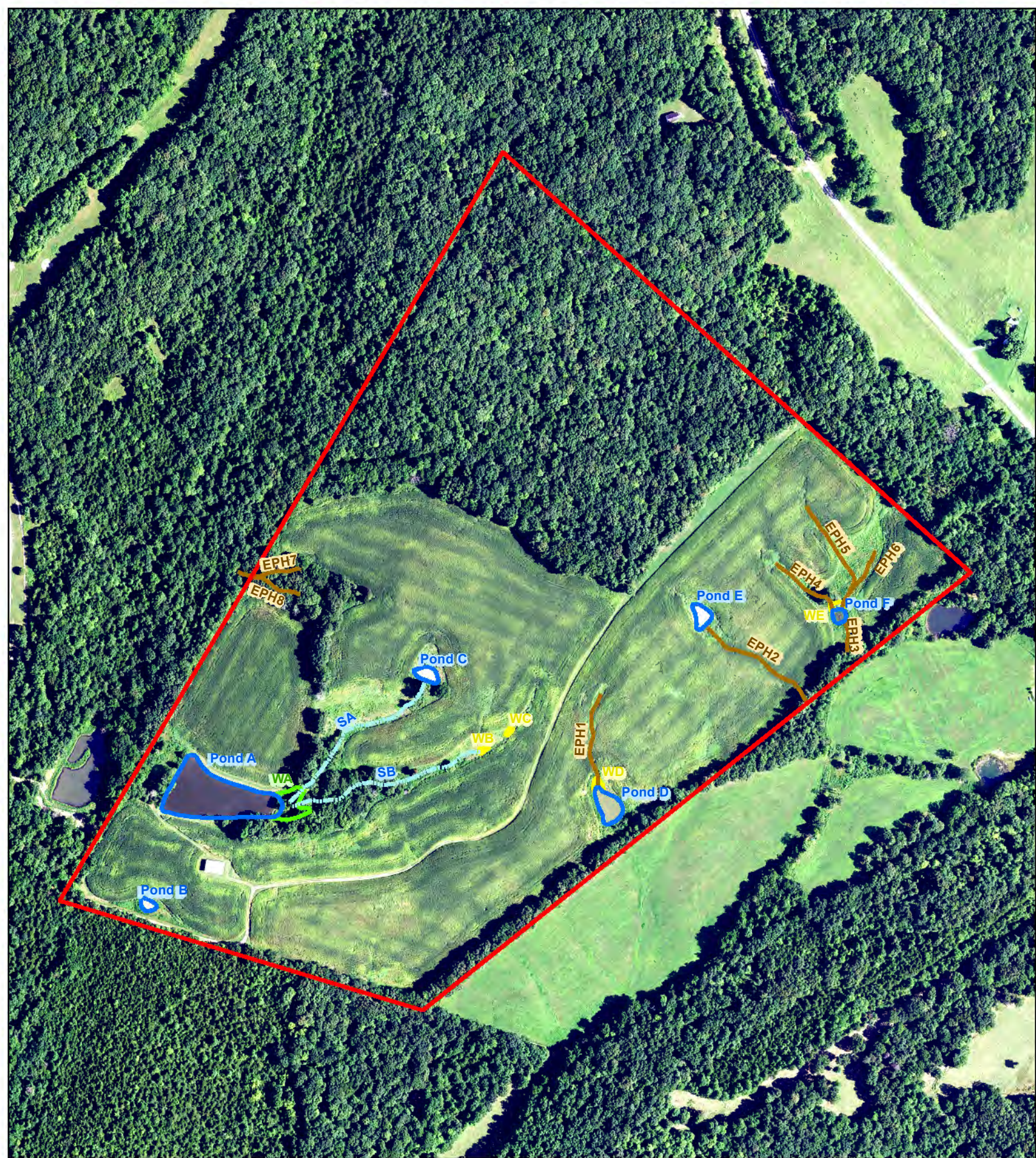
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Environmental Features Map
Merit Solar
Tompkinsville Site
Monroe County, KY

Legend

- Study
- PEM (Palustrine Emergent Wetland)
- PFO (Palustrine Forested Wetland)
- EPH (Ephemeral Channel)
- INT (Intermittent Stream)
- LUB (Lacustrine Unconsolidated Bottom/Pond)

N



0 225 450 Feet