



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): 05-MAR-2021

ORM Number: LRL-2021-00150-MAD

Associated JDs: N/A

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

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

Center Coordinates of Review Area: Latitude 38.171698 Longitude -85.521692

**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 Stream 1	175 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The stream is three to seven feet wide with silt, sand, gravel, cobble and bedrock substrate. During the January 11, 2021 site visit the channel contained flowing and pooled water at depths of up to six inches. The channel flows in to Shinks Branch, then to Chenoweth Run, the Floyds Fork, and onto the Salt River, and (a) (1) water.
Intermittent Stream 2	1789 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Intermittent Stream 2 is approximately seven feet wide with silt, sand, gravel, cobble, boulders and bedrock substrate. During the January 11, 2021 site visit the channel contained flowing and pooled water at depths of up to six inches. The channel flows in to Shinks

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<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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			Branch, then to Chenoweth Run, the Floyds Fork, and onto the Salt River, and (a) (1) water
Intermittent Stream 3	102 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Intermittent Stream 3 is three to five feet wide with silt, sand, gravel and cobble substrate. During the January 11, 2021 site visit the channel contained flowing and pooled water at depths less than six inches which flows into Intermittent 2, and (a) (2) water.
Intermittent Stream 4	458 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Intermittent Stream 4 is two to four feet wide with silt, sand, gravel and cobble substrate. During the January 11, 2021 site visit the channel contained flowing and pooled water at depths less than six inches which flows into Intermittent 2, and (a) (2) water.
Intermittent Stream 5	365 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Intermittent Stream 5 is three to six feet wide with silt, sand, gravel, cobble and bedrock substrate. During the January 11, 2021 site visit the channel contained flowing and pooled water at depths less than six inches to Open Water 1, an (a) (3) water.
Intermittent Stream 6	249 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Intermittent Stream 6 is two to five feet wide with silt, sand, gravel and cobble substrate. During the January 11, 2021 site visit the channel contained flowing and pooled water at depths less than six inches. The channel flows in to Shinks Branch, then to Chenoweth Run, the Floyds Fork, and onto the Salt River, and (a) (1) 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
Open Water 1	0.716 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 1 has a maximum depth of eight feet with a silt substrate. Pond 1 is hydrologically supplied by surface water and flows directly discharged from Intermittent Stream 5. The pond outlets to Intermittent Stream 6 via a culvert located in the southwest corner of the pond. Pond 1 has a direct hydrological connection to Intermittent Stream 6, an (a) (2) water.

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
Ephemeral Stream 1	84 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 1 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 10	120 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully,	Ephemeral 10 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and

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		rill, or pool	has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 11	169 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 11 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 12	97 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 12 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 13	76 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 13 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 14	139 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 14 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 15	81 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 15 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 16	167 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 16 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 17	120 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 17 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 18	65 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 18 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 19	45 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 19 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 2	289 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 2 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing

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			or pooling in direct response to precipitation.
Ephemeral Stream 20	95 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 20 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 21	21 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 21 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 22	31 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 22 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 23	135 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 23 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 3	21 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 3 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 4	412 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 4 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 5	175 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 5 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 6	94 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 6 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 7	26 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 7 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral Stream 8	38 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 8 is a first order stream, that exhibits silt bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
Ephemeral	111 feet	(b)(3) Ephemeral feature, including	Ephemeral 9 is a first order stream, that exhibits silt

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Stream 9		an ephemeral stream, swale, gully, rill, or pool	bottoms with minimal gravel and cobble substrate and has a morphology typical of ephemeral stream in the region. The stream only contains surface water flowing or pooling in direct response to precipitation.
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**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 for Old Heady Property dated February 11, 2021 submitted by RES Kentucky, LLC.*

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) Photographs dated January 22, 2021 included with the JD Request. Google Earth aeriels dated (6/6/2020, 2/25/2018, 11/16/2013, 12/30/2007, 6/19/2004, 3/14/1998, 3/28/1993, 12/30/1985)*

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: *Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey. Available online at <http://websoilsurvey.sc.egov.usda.gov/>. Accessed 03/05/2021*

USFWS NWI maps: *National Wetlands Inventory website. U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. Available online at <http://www.fws.gov/wetlands/>. Accessed 03/05/2021*

USGS topographic maps: *24k – Jeffersontown, Kentucky Quadrangle.*

**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):** The Antecedent Precipitation Tool was utilized for the January 11, 2021 site assessment. The data shows that the assessment was during normal conditions during the wet season. The site assessment was during typical year conditions.

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**C. Additional comments to support AJD: N/A.**

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