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): 4/14/2021
ORM Number: LRL-2021-00224-mad
Associated JDs: N/A
Review Area Location[1]: State/Territory: Kentucky City: Simpsonville County/Parish/Borough: Shelby
Center Coordinates of Review Area: Latitude 38.205074° Longitude 85.340914°

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.	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.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Intermittent 1	2,920	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent Stream 1 is five to twelve feet wide with silt, sand, gravel, cobble, and boulder substrate. During the Corps' field assessment the stream exhibited flowing water more than in response to precipitation and exhibited morphology typical of intermittent stream in the region including continuous bed and bank, presence of substrate sorting, width and depth of ordinary high water mark, and the amount of flowing water observed during the site visit. During the applicant's field assessment during normal conditions in the dry season,

[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 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.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
				Intermittent Stream 1 had limited areas of standing water and did not flow indicating an intermittent flow regime. The stream flows directly into Little Buckskin Creek, then to Buckskin Creek, then Brashers Creek, and into the Salt River, an (a) (1) water.
Intermittent 2	135	linear 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 three to four feet wide with silt, gravel, cobble, boulder substrate. During the Corps' field assessment, the stream exhibited flowing water more than in response to precipitation and exhibited morphology typical of intermittent stream in the region. The stream exhibited no flowing water during normal conditions during the dry season. Intermittent 2 indirectly contributes to Intermittent 1 an (a)(2) water.
Intermittent 3	1,065	linear 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 eight to twelve feet wide with silt, gravel, cobble, and boulder substrate. During the Corps' field assessment, the stream exhibited flowing water more than in response to precipitation and exhibited morphology typical of intermittent streams in the region. The stream exhibited no flowing water during normal conditions during the dry season. Intermittent 3 drains into Intermittent 1, and (a) (2) water.
Intermittent 4	980	linear 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 five to seven feet wide with silt, sand, gravel, and cobble substate. The stream exhibited flowing water more than in response to precipitation and exhibited morphology typical of intermittent streams in the region. The stream exhibited no flowing water during normal conditions during the dry season. Intermittent 4 flows directly into Intermittent 1, an (a)(2) water.
Intermittent 5	95	linear 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 five to seven feet wide with silt, sand, gravel, and cobble substate. The stream exhibited flowing water more than in response to precipitation and exhibited morphology typical of intermittent streams in the region. The stream exhibited no flowing water during normal conditions during the dry season. Intermittent 5 flows directly into Intermittent 3, an (a)(2) water.
Intermittent 6	110	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an	Intermittent Stream 6 is two to three feet wide with silt, gravel, and cobble substrate that originates from a hillside seep off the property. The stream exhibited a ground water connection and flow more than in response to precipitation. The stream exhibited no flowing water during normal conditions

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
			(a)(1) water in a typical year.	during the dry season. Intermittent 6 flows directly into Intermittent 1, an (a) (2) 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
N/A.	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.	N/A.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Ephemeral 1	150	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral stream 1 a first order stream that is approximately one foot wide with bank heights of six inches. The substrates consist primarily of silt with scattered gravel and cobble. The stream exhibited a morphology typical of ephemeral stream in the region and flows only in direct response to precipitation as seen in multiple site visits.
Ephemeral 3	715	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral stream 3 is approximately one to three feet wide with bank heights ranging from six inches to two feet. The substrates consist primarily of silt with scattered gravel and cobble. The stream exhibited a morphology typical of ephemeral stream in the region and flows only in direct response to precipitation as seen in multiple site visits.
Ephemeral 4	25	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral stream 4 is a first order stream that is approximately one-foot wide width and bank heights of six inches. The substrates consist primarily of silt with scattered gravel and cobble. The stream exhibited a morphology typical of ephemeral stream in the region and flows only in direct response to precipitation as seen in multiple site visits.
Ephemeral 5	25	linear feet	(b)(3) Ephemeral feature, including an ephemeral	Ephemeral stream 5 is a first order stream that is approximately one-foot wide width and bank heights of six inches. The substrates consist

[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.

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
			stream, swale, gully, rill, or pool.	primarily of silt with scattered gravel and cobble. The stream exhibited a morphology typical of ephemeral stream in the region and flows only in direct response to precipitation as seen in multiple site visits
Ephemeral 6	25	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral stream 6 is a first order stream that is approximately one-foot wide width and bank heights of six inches. The substrates consist primarily of silt with scattered gravel and cobble. The stream exhibited a morphology typical of ephemeral stream in the region and flows only in direct response to precipitation as seen in multiple site visits
Ephemeral 8	30	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral stream 8 is a first order stream that is approximately one-foot wide width and bank heights of six inches. The substrates consist primarily of silt with scattered gravel and cobble. The stream exhibited a morphology typical of ephemeral stream in the region and flows only in direct response to precipitation as seen in multiple site visits.
Ephemeral 9	25	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral stream 9 is a first order stream that is approximately one-foot wide width and bank heights of six inches. The substrates consist primarily of silt with scattered gravel and cobble. The stream exhibited a morphology typical of ephemeral stream in the region and flows only in direct response to precipitation as seen in multiple site visits
Ephemeral 10	60	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral stream 10 is a first order stream that is approximately one-foot wide width and bank heights of six inches. The stream exhibited a morphology typical of ephemeral stream in the region and was isolated in the landscape from any downstream resources.
Ephemeral 11	195	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral stream 4 is a first order stream that is approximately two feet wide and bank heights of one to two feet. The substrates consist primarily of silt with scattered gravel and cobble. The stream exhibited a morphology typical of ephemeral stream in the region and flows only in direct response to precipitation as seen in multiple site visits
Ephemeral 12	55	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral stream 12 is a first order stream that is approximately one foot wide width and bank heights of six inches. The substrates consist primarily of silt with scattered gravel and cobble. The stream exhibited a morphology typical of

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				ephemeral stream in the region and flows only in direct response to precipitation as seen in multiple site visits.
Ephemeral A	60	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral stream A is a first order stream that receives water from Wetland 1. The stream is approximately one-foot wide width and bank heights of six inches. The stream exhibited a morphology typical of ephemeral stream in the region and was isolated in the landscape from any downstream resources.
Ephemeral B	130	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral stream B is a first order stream that is approximately one-foot wide width and bank heights of six inches. The substrates consist primarily of silt with scattered gravel and cobble. The stream exhibited a morphology typical of ephemeral stream in the region and flows only in direct response to precipitation as seen in multiple site visits
Wetland 1	0.132	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 1 abuts Ephemeral A, which is a (b) (3) excluded feature. There are no other hydrological connections or potential for the resource to receive flooding from a jurisdictional water.
Wetland 2	0.024	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 2 is located in a depression and is physically isolated in the landscape. The feature has no direct hydrological connect to any other resources or potential to receive flooding from a jurisdictional water.
Wetland 3	0.060	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 3 drains into an excluded roadside ditch offsite. There are no other hydrological connections or potential for the resource to receive flooding from a jurisdictional water.
Wetland 4	0.040	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 4 abuts Ephemeral 1, a (b) (3) excluded feature. There are no other hydrological connections or potential for the resource to receive flooding from a jurisdictional water.
Wetland 5	0.009	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 5 is physically isolated in the landscape a has no direct hydrological connect to any resources or potential to receive flooding from a jurisdictional 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 Flowers Property dated February 26, 2021 prepared by RES Kentucky LLC and additional information received April 14, 2021.

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: Applicant photographs dated 9/22/2020, 10/20/2020 and 2/22/2021. Corps photographs dated 4/1/2021. Google Earth aerails dated 11/5/2020, 2/25/2018, 7/26/2006, 3/7/1997, 12/30/1985. historicaerials.com/viewer aerails dated 1952, 1959, 19654, 1985 .

☒ Corps site visit(s) conducted on: April 1, 2021

☐ 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 03/30/2021

☒ USFWS NWI maps: 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 03/30/2021

☒ USGS topographic maps: 1:24,000 – Simpsonville, 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 4/1/2021 Corps site visit, and the applicant's site assessment dates of 9/22/2020, 10/20/2020 and 2/22/2021. The data shows that the Corps' April 1 visit was during wetter than normal conditions during the wet season. The September 22 assessment was during normal conditions during the dry period. The October 20 assessment was during drier than normal conditions during the dry period. The February 22 assessment was during normal conditions during the dry period. The September 22 and February 22 site assessment were during typical year conditions.

C. Additional comments to support AJD: N/A or provide additional discussion as appropriate.