



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): March 23, 2021

ORM Number: LRL-2021-103-sea

Associated JDs: N/A

Review Area Location¹:

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

Center Coordinates of Review Area: Latitude 38.112886 Longitude -85.643345

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
N/A	N/A	N/A	N/A

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

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

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 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.

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
EPH 1	90 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	EPH 1 only contains surface water flowing or pooling in direct response to precipitation. No flow was observed during the August 27, 2020 site visit. EPH 1 is a (b)(3) water and is therefore excluded from the rule.
EPH 2	30 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	EPH 2 only contains surface water flowing or pooling in direct response to precipitation. No flow was observed during the August 27, 2020 site visit. EPH 2 is a (b)(3) water and is therefore excluded from the rule.
WET 1	0.046 acres	(b)(1) Non-adjacent wetland	WET 1 does not physically abut an (a)(1)-(a)(3) water and is not inundated by water from an (a)(1)-(a)(3) water in a typical year.
WET 2	0.014 acres	(b)(1) Non-adjacent wetland	WET 2 does not physically abut an (a)(1)-(a)(3) water and is not inundated by water from an (a)(1)-(a)(3) water in a typical year.
WET 3	0.043 acres	(b)(1) Non-adjacent wetland	WET 3 does not physically abut an (a)(1)-(a)(3) water and is not inundated by water from an (a)(1)-(a)(3) water in a typical year.
WET 4	0.063 acres	(b)(1) Non-adjacent wetland	WET 4 does not physically abut an (a)(1)-(a)(3) water and is not inundated by water from an (a)(1)-(a)(3) water in a typical year.
WET 5	0.939 acres	(b)(1) Non-adjacent wetland	WET 5 does not physically abut an (a)(1)-(a)(3) water and is not inundated by water from an (a)(1)-(a)(3) water in a typical year.
WET 6	0.066 acres	(b)(1) Non-adjacent wetland	WET 6 does not physically abut an (a)(1)-(a)(3) water and is not inundated by water from an (a)(1)-(a)(3) water in a typical year.
WET 7	0.444 acres	(b)(1) Non-adjacent wetland	WET 7 does not physically abut an (a)(1)-(a)(3) water and is not inundated by water from an (a)(1)-(a)(3) water in a typical year.

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 dated January 29, 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: kygisserver.ky.gov ArcGIS Services (2018) and site photographs taken August 27, 2020.

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

Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s)*.

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- 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 – Brooks, Kentucky Quad

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), Historic Aerials.com accessed March 17, 2021.

- B. Typical year assessment(s):** N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.
- C. Additional comments to support AJD:** WUHPD was reviewed for August 27, 2020 to see the precipitation totals for the days leading up to the assessment date and site visit. In August 2020, the Louisville International Airport Station, located approximately 7 miles away from the review area, recorded no rainfall 3 days prior to the site visit.

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