



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): 16-AUG-2021

ORM Number: LRL-2021-00115-MAD

Associated JDs: N/A

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

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

Center Coordinates of Review Area: Latitude 38.063297 Longitude -85.512652

**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
Perennial 1	1,020 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical yea	Perennial Stream 1 ranges from seven to nine feet wide with three to ten feet bank heights and silt, sand, gravel, and cobble substrate. During the field assessment, Perennial Stream 1 exhibited flowing water at depths of six inches. The stream exhibited a morphology typical of perennial stream in the region and flows offsite into Floyd’s Fork and into Salt River, (a)(1) stream.
Intermittent 1	220 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 four feet wide with bank heights of six inches to one foot and substrate consisting of silt and gravel. During the field assessment, Intermittent Stream 1 contained flowing water at three to six inches.

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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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			The stream exhibited a morphology typical of intermittent streams in the region. The stream flows offsite into an unnamed tributary to Floyd's Fork, an (a)(2) water.
Intermittent 2	555 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Contributes water to an (a)(1) indirectly. Intermittent Stream 2 is two to three feet wide with bank heights of six inches to one foot and substrate consisting of silt, gravel, and bedrock. During the field assessment, Intermittent Stream 2 contained some pools of water at six inches. The stream exhibited a morphology typical of intermittent streams in the region. The stream flows into Intermittent 1, an (a)(2) water.
Intermittent 3	110 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 feet wide with bank heights of six inches and substrate consisting of silt and gravel. During the field assessment, Intermittent Stream 3 contained flowing water at one to two inches. The stream exhibited a morphology typical of intermittent streams in the region. The stream flows into Intermittent 1, an (a)(2) water.
Intermittent 4	420 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Intermittent Stream 4 begins at the culvert outlet of Open Water 1 and is two to four feet wide with bank heights of one to two feet and substrate consisting of silt, gravel, and cobble. During the field assessment, Intermittent Stream 4 contained flowing water at one to two inches. The stream exhibited a morphology typical of intermittent streams in the region. The stream flows into Perennial 1, an (a)(2) water. The stream flows into Perennial 1, an (a)(2) water.
Intermittent 5	25 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Intermittent Stream 5 begins at a small seep and is one and a half feet wide with bank heights of less than six inches and substrate consisting of silt. During the field assessment, Intermittent Stream 5 contained flowing water at less than one inch. The stream exhibited a morphology typical of intermittent streams in the region. The stream flows into intermittent 4, an (a)(2) water.
Intermittent 6	50 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 three feet wide with bank heights of one to three feet and substrate consisting of silt and gravel. During the field assessment, Intermittent Stream 6 contained flowing water at one to three inches. The stream exhibited a morphology typical of intermittent streams in the region. The stream flows into intermittent 7, an (a)(2) water.
Intermittent 7	1130 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The stream is four to eight feet wide with bank heights of one to three feet and substrate consisting of silt, gravel, cobble, boulder, and bedrock. During the field assessment, Intermittent Stream 7 contained mostly pooled water in upstream and flowing water in downstream with flowing water at one to six inches. The stream has a morphology typical of an intermittent stream in the region an contributes flow directly to perennial 1, an (a)(2) water.
Intermittent 8	540 feet	(a)(2) Intermittent tributary contributes surface water flow	The stream is three to eight feet wide with bank heights of six inches to six feet and substrate consisting of silt,

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		directly or indirectly to an (a)(1) water in a typical year	gravel, cobble, and bedrock. During the field assessment, Intermittent Stream 8 contained areas of pooled water and trickle flow at one to four inches. The stream has a morphology typical of an intermittent stream in the region an contributes flow directly to intermittent stream 7, an (a)(2) water.
Intermittent 9	145 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Intermittent Stream 9 is three to four feet wide with bank heights of one to three feet and substrate consisting of silt, gravel, cobble, and boulder. During the field assessment, Intermittent Stream 9 contained flowing water at one to four inches. The stream exhibited a morphology typical of intermittent streams in the region. The stream flows into Perennial 1, an (a)(2) water.
Intermittent 10	995 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Intermittent Stream 10 is one to three feet wide with bank heights of six inches to one foot and substrate consisting of silt, cobble, boulder, and bedrock. During the field assessment, Intermittent Stream 10 contained pooled water at one to six inches. The stream exhibited a morphology typical of intermittent streams in the region. The stream flows into Perennial 1, an (a)(2) water.
Intermittent 11	490 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Intermittent Stream 11 is three feet wide with bank heights of six inches and substrate consisting of silt and gravel. During the field assessment, Intermittent Stream 11 contained pooled water at one to two inches. The stream exhibited a morphology typical of intermittent streams in the region. The stream flows into Perennial 1, an (a)(2) water.
Intermittent 12	180 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Intermittent Stream 12 is three to four feet wide with bank heights of one to two feet and substrate consisting of silt and bedrock. During the field assessment, Intermittent Stream 12 contained pooled water at one to three inches. The stream exhibited a morphology typical of intermittent streams in the region. The stream flows into Perennial 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

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

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland 1	0.231 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 1 is an emergent and scrub-shrub wetland that abuts Intermittent Stream 1, and (a)(2) water.
Wetland 2	0.087 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 2 is an emergent wetland that abuts Intermittent Stream 4, an (a)(2) water.
Wetland 3	0.056 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 3 is an emergent wetland that abuts Intermittent Stream 8, an (a)(2) water.
Wetland 4	0.031 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 4 is an emergent wetland that abuts Intermittent Stream 10, an (a)(2) water.

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Wetland 5	0.023 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 5 is an emergent wetland that abuts Intermittent Stream 10, an (a)(2) water.
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**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 1	65 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that had small pools of less than one inch in depth, but no flowing water during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 2	60 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that had small pools of less than one inch in depth, but no flowing water during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 3	40 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that was dry during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 4	80 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that was dry during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 5	65 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that was dry during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 6	180 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that was dry during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 7	75 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that was dry during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 9	160 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that was dry during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 10	35 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that was dry during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 11	205 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that was dry during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 12	250 feet	(b)(3) Ephemeral feature, including	The feature is a first order stream that was dry during

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		an ephemeral stream, swale, gully, rill, or pool	the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 13	190 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream that was dry during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 14	75 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that was dry during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 15	45 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that had small pools of less than one inch in depth, but no flowing water during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 16	155 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that was dry during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 17	395 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that was dry during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 18	250 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that had small pools of less than one inch in depth, but no flowing water during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 19	35 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature was dry during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Ephemeral 20	100 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is a first order stream that was dry during the field assessment. The stream does not exhibit flow more than in response to precipitation and has a morphology typical of ephemeral stream in the region.
Open Water 1	1.918 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)	Open Water Pond 1 was constructed between 1955 and 1959 in the uplands. The artificial pond is not an impoundment of a jurisdictional water that meets (c)(6)

**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: *Pre-filing Request form*

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*submitted January 18, 2021; PCN for NWP 29 and Individual WQC submitted February 2021 prepared by RES Kentucky, LLC.*

This information (*is/is not/is and is not*) sufficient for purposes of this AJD.

Rationale: *N/A or describe rationale for insufficiency (including partial insufficiency).*

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

Photographs: (*aerial and other*) *Applicant Photos dated 7/29/2020 and 8/05/2020; Google Earth aerials dated 06/06/2020, 02/25/2018, 12/30/2013, 06/30/2010, 07/26/2006, 12/31/2001, 03/07/1997*

\_\_\_ 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 08/09/2021*

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 08/09/2021*

USGS topographic maps: *1:24,000 Mount Washington, KY 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 the applicant's site assessment dates of July 29 and August 5, 2020. The data shows that the assessment was during wetter than normal conditions during the dry season. The assessment was during wetter than typical year conditions.

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

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