



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): 10-JUN-2021

ORM Number: LRL-2021-00274

Associated JDs: N/A

Review Area Location¹:

State/Territory: KY City: Latonia County/Parish/Borough: Kenton County

Center Coordinates of Review Area: Latitude 38.939725 Longitude -84.496193

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
Decoursey Creek	1300 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Decoursey Creek is a (a)(2) water with a perennial flow regime, a bank full width of 10-15 feet, and a watershed acreage of approximately 575 acres. This stream is a named channel (Decoursey Creek) and was identified as perennial by the agent during the site visits and as perennial on the USGS Quad map (Alexandria, KY).
Stream-B	650 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream-B is a (a)(2) water with an intermittent flow regime, a bank full width of 6-8 feet, and a watershed area of approximately 185 acres.
Stream-C	1300 feet	(a)(2) Intermittent tributary contributes surface water flow	Stream-C is a (a)(2) water with an intermittent flow regime, a bank full width of 6-8 feet, and a watershed

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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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		directly or indirectly to an (a)(1) water in a typical year	acreage of 72 acres.
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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
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
Wetland-1	0.03 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland-1 is a (a)(4) water that directly abuts an (a)(2) water (Stream-B).

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Gulley-1	200 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Gulley-1 is not an (a)(1-4) water. The feature did not exhibit ordinary highwater marks (OHWM) and was created from erosion in the vicinity of previous grading activities in the uplands.
Pond-1	0.1 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-1 is not an (a)(1-4) water. Pond-1 was constructed within the uplands and does not have a direct connection to downstream waters. The pond has a failed dam that no longer impounds water. The agent did not find wetland indicators within the pond. The pond detains water during and after precipitation events but does not retain the water for extended periods due to the failed dam.
Pond-2	0.1 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-2 is not an (a)(1-4) water. Pond-2 was constructed within an upland area or the upper reach of an ephemeral stream. Pond-2 has an intact dam but does not retain water and the agent did not identify the three wetland indicators required to confirm a wetland within the pond area.
Stream-A	600 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-A is not an (a)(1-4) water. The feature has a bank full width of 2-3 feet and a watershed area of approximately 8 acres. A groundwater connection was not identified within this reach by the agent during multiple site investigations (OCT, 2019; JAN, 2021).
Stream-C-1	120 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-C-1 is not an (a)(1-4) water. The feature has a bank full width of 1-2 feet and a watershed area of approximately 1 acre. A groundwater connection was not identified within this reach by the agent during multiple site investigations (APR, 2006; OCT, 2019; JAN, 2021)
Stream-C-2	400 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-C-2 is not an (a)(1-4) water. The feature has a bank full width of 2 feet and a watershed area of approximately 4.5 acres. A groundwater connection was not identified within this reach by the agent during multiple site investigations (APR, 2006; OCT, 2019;

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			JAN, 2021). The feature originates below the dam of Pond-2.
Stream-C-3	70 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-C-3 is not an (a)(1-4) water. The feature has a bank full width of 1-2 feet and a watershed area of approximately 1 acre. A groundwater connection was not identified within this reach by the agent during multiple site investigations (APR, 2006; OCT, 2019; JAN, 2021).
Stream-D	400 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-D is not an (a)(1-4) water. The feature has a bank full width of 2-3 feet and a watershed area of approximately 5 acres. A groundwater connection was not identified within this reach by the agent during multiple site investigations (OCT, 2019; JAN, 2021).
Stream-E	250 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-E is not an (a)(1-4) water. The feature has a bank full width of 1-2 feet and a watershed area of approximately 6 acres. A groundwater connection was not identified within this reach by the agent during multiple site investigations (OCT, 2019; JAN, 2021)

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: *Delineation Report: Villages of Decoursey Creek Property. Submitted by Otte Enterprises. Dated January 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*): *Google Earth, 2021; Maps submitted by the agent.*

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: *Title(s) and/or date(s).*

USFWS NWI maps: *Title(s) and/or date(s).*

USGS topographic maps: *1:24,000 Alexandria, KY.*

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.

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- B. Typical year assessment(s):** The PDSI Index indicates “normal conditions” at the project location during the April, 2006 site visit, “extreme wetness” at the project location during the October, 2019 site visit, and “severe wetness” at the project location during the January, 2021 site visit. The Web WIMP H2O Balance indicates all three of the determinations were conducted during a wet season. The Antecedent Precipitation Tool determined that during the 2006 site visit “wetter than normal” conditions existed at the project site, during the 2019 site visit “normal” conditions existed at the project site, and during the 2021 site visit “drier than normal” conditions existed at the project site.
- C. Additional comments to support AJD:** N/A or provide additional discussion as appropriate.

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