



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): 25-AUG-2021

ORM Number: LRL-2021-507

Associated JDs: N/A

Review Area Location¹:

State/Territory: KY City: Southgate County/Parish/Borough: Campbell County

Center Coordinates of Review Area: Latitude 39.0543 Longitude -84.4728

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
Stream 15	1243 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 15 is a (a)(2) water with an intermittent flow regime, a bank full width of 8 feet, and a watershed area of 16 acres.
Stream 20	612 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 20 is a (a)(2) water with a perennial flow regime, a bank full width of 18 feet, and a watershed area of 220 acres.
Stream 21	590 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 21 is a (a)(2) water with a perennial flow regime, a bank full width of 38 feet, and a watershed area of 870 acres.

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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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Stream 6	258 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 6 (Threemile Creek) is a (a)(2) water with a perennial flow regime, a bank full width of 45 feet, and a watershed area of approximately 3,800 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
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
Stream 1	441 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 1 is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 6 feet, and a watershed area of 8 acres. Flow was not present at the time of the site investigation by S&ME on March 4, 2021.
Stream 10	220 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 10 is not an (a)(1-4) water. The feature had an ephemeral flow regime, bank full width of 5.5 feet, and a watershed area of 2 acres. Flow was not present at the time of the site investigation by S&ME on March 5, 2021.
Stream 11	822 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 11 is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 6 feet, and a watershed area of 15 acres. Flow was not present at the time of the site investigation by S&ME on March 5, 2021.
Stream 12	418 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 12 is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 4 feet, and a watershed area of approximately 1 acre. Flow was not present at the time of the site investigation by S&ME on March 5, 2021.
Stream 13	110 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 13 is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 3 feet, and a watershed area of approximately 1 acre. Flow was not present at the time of the site investigation by S&ME on March 5, 2021.
Stream 14	144 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 14 is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 6 feet, and a watershed area of 5 acres. Flow was present at the time of the site investigation by S&ME on March 8, 2021. The flow was present in the lower reach of the channel. The area had received over 2 inches of precipitation in the weeks preceding the site investigation.

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Stream 14A	721 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 14A is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 5 feet, and a watershed area of approximately 1 acre. Flow was not present at the time of the site investigation by S&ME on March 8, 2021.
Stream 15A	146 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 15A is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 4 feet, and a watershed area of 6 acres. Flow was not present at the time of the site investigation by S&ME on March 8, 2021.
Stream 16	138 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 16 is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 3.5 feet, and a watershed area of approximately 1 acre. Flow was not present at the time of the site investigation by S&ME on March 8, 2021.
Stream 17	172 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 17 is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 4 feet, and a watershed area of approximately 1 acre. Flow was not present at the time of the site investigation by S&ME on March 8, 2021.
Stream 18	635 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 18 is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 4 feet, and a watershed area of 15 acres. Flow was present at the time of the site investigation by S&ME on March 5, 2021. The area had received over 2 inches of precipitation in the week preceding the site investigation.
Stream 19	264 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 19 is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 4 feet, and a watershed area of 4 acres. Flow was not present at the time of the site investigation by S&ME on March 5, 2021.
Stream 2S	68 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 2S is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 3 feet, and a watershed area of approximately 1 acre. Flow was not present at the time of the site investigation by S&ME on March 4, 2021.
Stream 3S	129 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 3S is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 3.5 feet, and a watershed area of approximately 1 acre. Flow was not present at the time of the site investigation by S&ME on March 4, 2021.
Stream 4	1104 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 4 is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 5 feet, and a watershed area of 7 acres. Flow was not present at the time of the site investigation by S&ME on March 3, 2021.
Stream 5	465 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 5 is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 4 feet, and a watershed area of approximately 1 acre. Flow was not present at the time of the site investigation by S&ME on March 3, 2021.

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Stream 7	150 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 7 is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 5 feet, and a watershed area of 2 acres. Flow was present at the time of the site investigation by S&ME on March 4, 2021. The flow was present in the lower reach of the channel. The area had received over 2 inches of precipitation in the week preceding the site investigation.
Stream 7A	52 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 7A is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 3 feet, and a watershed area of approximately 1 acre. Flow was not present at the time of the site investigation by S&ME on March 4, 2021.
Stream 8	462 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 8 is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 4 feet and a watershed area of 4 acres. Flow was not present at the time of the site investigation by S&ME on March 4, 2021.
Stream 9	241 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 9 is not an (a)(1-4) water. The feature had an ephemeral flow regime, a bank full width of 4 feet, and a watershed area of 2 acres. Flow was not present at the time of the site investigation by S&ME on March 3, 2021.
Wetland 1	0.133 acres	(b)(1) Non-adjacent wetland	Wetland 1 is not an (a)(1-4) water. The feature was a depressional wetland within a forested area. The wetland was separated from Stream 7A by a berm/dam. Overflow from the wetland area would enter an ephemeral stream and flow would be conveyed to down stream waters. The wetland does not have a direct connection to an (a)(1-4)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: Sunrock. Submitted by S&ME. Dated June 3, 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) Maps submitted by the applicant/agent and Google Earth, 2021*
- 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)*.

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X USGS topographic maps: 1:24,000 Newport, 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	https://www.weather.gov/iln/lcd_archive
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** The PDSI Index indicates “Moderate Wetness” at the project location. The Web WIMP H2O Balance indicates the determination was conducted during a wet season. The Antecedent Precipitation Tool determined that during the 90 days prior to the date of the site investigation by S&ME (March 3-8, 2021) normal conditions existed at the project site. The Northern Kentucky area (recorded at CVG airport) received 2.08 inches of precipitation on February 28, 2021.
- C. Additional comments to support AJD:** N/A or provide additional discussion as appropriate.

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