



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 20-AUG-2021

ORM Number: LRL-2021-00578-MAD

Associated JDs: N/A

Review Area Location¹:

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

Center Coordinates of Review Area: Latitude 38.218476 Longitude -85.245186

I. 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
LRL-2021-00578, Intermittent 1	477 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	During the field assessment, the stream exhibit normal stream flow at a maximum depth of four inches. It ranges from three to five feet wide and bank heights ranging from one to two feet with a mix of silt and gravel substrate. The stream exhibits a morphology typical of intermittent streams in the region and flow more than in response to precipitation. The stream flows offsite into Dry Run, then to Clear Creek, then Brashear Creek and into the Salt River, an (a)(1) water.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

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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(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
LRL-2021-00578, Wetland 1	0.053 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The feature is an emergent wetland within an old farm pond, with hydrologic input from a seep at its northern boundary. It is directly connected to a jurisdictional Intermittent 1, an (a)(1) water.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
LRL-2021-00578, Ephemeral 1	240 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.

II. 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: Preconstruction Notification for Nationwide Permit 29 and Individual Water Quality Certification Robin Road Property dated June 22, 2021 submitted by RES Kentucky, LLC.
This information (is) 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 4/20/2021, Google Earth aerials dated (11/05/2020, 04/12/2017, 12/30/2012, 06/14/2008, 06/19/2004, 03/14/1998*
- 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 08/20/2021*
- 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 08/20/2021*
- USGS topographic maps: *1:24,000 Shelbyville, KY Quadrangle*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information

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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 from April 20, 2021. The data shows that the assessment was during wetter than normal conditions during the wet season. The assessment was during wetter than typical year conditions.
- C. Additional comments to support AJD:** N/A

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