



**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): 3/16/2021  
 ORM Number: LRL-2019-000791  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: KY City: Florence County/Parish/Borough: Boone  
 Center Coordinates of Review Area: Latitude 39.030729 Longitude -84.681198

**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.	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.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Gunpowder Creek (Perennial)	718	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Perennial Gunpowder Creek flows into the Ohio river, an (a)(1) water.
Stream 7 (Perennial)	1,167	linear feet	(a)(2) Perennial tributary contributes	Perennial Stream 7 contributes flow to perennial Gunpowder Creek, which directly flows into the Ohio river, an (a)(1) water.

APPROVED BY: *GAM* 3/17/21

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or 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.

<sup>3</sup> 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 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.



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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
			surface water flow directly or indirectly to an (a)(1) water in a typical year.	
Stream 8 (Intermittent)	1,343	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent Stream 8 contributes flow into perennial Stream 7, which contributes flow into perennial Gunpowder Creek, which directly flows into the Ohio River, an (a)(1) water.
Stream 14 (Intermittent)	603	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent Stream 14 contributes flow into intermittent Stream 8, which contributes flow into perennial Stream 7, which contributes flow into perennial Gunpowder Creek, which directly flows into the Ohio river, an (a)(1) 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
N/A.	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.	N/A.

**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
Wetland A	0.01	acre(s)	(b)(1) Non-adjacent wetland.	Wetland A is abutting Ephemeral Stream 2, only, and does not contribute surface water flow directly to any Intermittent stream or any other jurisdictional water, nor is it flooded by any (a)(1)-(3) water.
Wetland B	0.02	linear feet	(b)(1) Non-adjacent wetland.	Wetland B is abutting Ephemeral Stream 2, only, and does not contribute surface water flow directly to any Intermittent stream or any other

<sup>4</sup> 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.

<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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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
				jurisdictional water, nor is it flooded by any (a)(1)-(3) water.
Wetland C	0.12	linear feet	(b)(1) Non-adjacent wetland.	Wetland C is an isolated wetland that appears to be a former farm pond and does not contribute surface water flow directly to any Intermittent stream or any other jurisdictional water, nor is it flooded by any (a)(1)-(3) water.
Wetland D	0.03	linear feet	(b)(1) Non-adjacent wetland.	Wetland D is near Ephemeral Stream 16, only, and does not contribute surface water flow directly to any Intermittent stream or any other jurisdictional water, nor is it flooded by any (a)(1)-(3) water.
Stream 1 (Eph)	64	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 1 is an ephemeral feature with an ordinary high water mark width of 2 ft and depth of 6 inches. The dominant substrate is silt. Based on the physical conditions of the stream, typical year analysis in Section III.B below, and site observations by the consultant, the evidence shows this is an ephemeral feature.
Stream 2 (Eph)	743	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 2 is an ephemeral feature with an ordinary high water mark width of 2 ft and depth of 6 inches. The dominant substrate is silt. Based on the physical conditions of the stream, typical year analysis in Section III.B below, and site observations by the consultant, the evidence shows this is an ephemeral feature.
Stream 3 (Eph)	88	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 3 is an ephemeral feature with an ordinary high water mark width of 3 ft and depth of 6 inches. The dominant substrate is silt. Based on the physical conditions of the stream, typical year analysis in Section III.B below, and site observations by the consultant, the evidence shows this is an ephemeral feature.
Stream 8 (Eph)	369	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 8 is an ephemeral feature with an ordinary high water mark width of 6 ft and depth of 15 inches. The dominant substrate is silt. Based on the physical conditions of the stream, typical year analysis in Section III.B below, and site observations by the consultant, the evidence shows this is an ephemeral feature.
Stream 10 (Ephemeral open channel)	61	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 10 is an ephemeral feature with an ordinary high water mark width of 2 ft and depth of 12 inches. The dominant substrate is silt. Based on the physical conditions of the stream, typical year analysis in Section III.B below, and



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
				site observations by the consultant, the evidence shows this is an ephemeral feature.
Stream 13 (Eph)	220	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 13 is an ephemeral feature with an ordinary high water mark width of 2 ft and depth of 8 inches. The dominant substrate is silt. Based on the physical conditions of the stream, typical year analysis in Section III.B below, and site observations by the consultant, the evidence shows this is an ephemeral feature.
Stream 14 (Eph)	513	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 14 is an ephemeral feature with an ordinary high water mark width of 1.5 ft and depth of 6 inches. The dominant substrate is silt. Based on the physical conditions of the stream, typical year analysis in Section III.B below, and site observations by the consultant, the evidence shows this is an ephemeral feature.
Stream 15 (Eph)	628	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 15 is an ephemeral feature with an ordinary high water mark width of 2 ft and depth of 6 inches. The dominant substrate is silt. Based on the physical conditions of the stream, typical year analysis in Section III.B below, and site observations by the consultant, the evidence shows this is an ephemeral feature.
Stream 16 (Eph)	611	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 16 is an ephemeral feature with an ordinary high water mark width of 2 ft and depth of 8 inches. The dominant substrate is silt. Based on the physical conditions of the stream, typical year analysis in Section III.B below, and site observations by the consultant, the evidence shows this is an ephemeral feature.
Stream 10 (piped Eph)	61	linear feet	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	The piped portion of Ephemeral Stream 10 originates from a stormwater management basin on the adjacent site.

**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: [Form 4345 Application submitted on August 26, 2020 by Ramboll.](#)



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This information **is** sufficient for purposes of this AJD.

Rationale: **The Corps agrees with the information submitted by the Agent.**

- Data sheets prepared by the Corps: **Title(s) and/or date(s).**
- Photographs: **Aerial: Google images**
- 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: **Title(s) and/or date(s).**

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	N/A.
<a href="#">USDA Sources</a>	N/A.
<a href="#">NOAA Sources</a>	N/A.
<a href="#">USACE Sources</a>	N/A.
<a href="#">State/Local/Tribal Sources</a>	N/A.
<a href="#">Other Sources</a>	N/A.

**B. Typical year assessment(s):** **N/A**

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