



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): August 20, 2021

ORM Number: LRL-2021-00615

Associated JDs: N/A

Review Area Location¹:

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

Center Coordinates of Review Area: Latitude 38.089417 Longitude -85.660044

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
N/A	N/A	N/A	N/A

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

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.



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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Eph 1	80 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral Stream 1 ranges from one to two feet wide with half-foot bank heights and a substate consisting primarily of silt. Ephemeral Stream 1 drains Wetland 2 to Wetland 1 in the southeastern portion of the site. No flow was observed within the banks of Ephemeral Stream 1 during the field assessment. Ephemeral Stream 1 only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the field assessment. Ephemeral Stream 1 is a (b)(3) water and is therefore excluded from the rule.
Wet 1	0.1 acres	(b)(1) Non-adjacent wetland	Wetland 1 is a forested and emergent wetland located in the southeastern portion of the site and drains south to an off-site riprap ditch. Wetland 1 is a (b)(1) water and is therefore excluded from the rule.
Wet 2	0.054 acres	(b)(1) Non-adjacent wetland	Wetland 2 is a scrub wetland located in the southeastern portion of the site and drains southwest into Ephemeral Stream 1, which connects Wetlands 1 and 2. Wetland 2 is a (b)(1) water and is therefore excluded from the rule.
Wet 3	0.11 acres	(b)(1) Non-adjacent wetland	Wetland 3 is a scrub wetland in the eastern portion of the site with no defined outlet or any surface connection to downstream waters of the U.S. Wetland 3 is a (b)(1) water and is therefore excluded from the rule.
Wet 4	0.548 acres	(b)(1) Non-adjacent wetland	Wetland 4 drains off site and ends in a low area northeast of the existing Walmart with no defined outlet or any surface connection to downstream waters of the U.S. Wetland 4 is a (b)(1) water and is therefore excluded from the rule.
Wet 5	4.3 acres	(b)(1) Non-adjacent wetland	Wetland 5 is a forested and emergent wetland in the northern portion of the site with no defined outlet or any surface connection to downstream waters of the U.S. Wetland 5 is a (b)(1) water and is therefore excluded from the rule.

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: *Request for Jurisdictional Determination, Walker Property, Jefferson County, Kentucky (June 30, 2021).*

This information is sufficient for purposes of this AJD.

Rationale: *N/A*

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 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.

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.



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

- Data sheets prepared by the Corps: *N/A*
- Photographs: *Aerial and other: World Imagery – ESRI (2019) and site photographs June 14, 2021 submitted by the agent.*
- Corps Site visit(s) conducted on *October 10, 2018 and August 5, 2021.*
- Previous Jurisdictional Determinations (AJDs or PJDs): *N/A*
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: *SSURGO, Jefferson County, Kentucky (2008)*
- USFWS NWI maps: *N/A*
- USGS topographic maps: *1:24K Brooks, Kentucky Quad*

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	Regulatory viewer with NHD, 3DEP Elevation contours, DEM, and hill-shade layers.
State/Local/Tribal Sources	LOJIC Online (2021) w/Environmental and Property layers.
Other Sources	Google Earth Pro (2019) with NHD and USGS Earth point Topo map layers.

- B. Typical year assessment(s):** Typical year assessment was conducted utilizing desktop tools identified above and the submitted request for jurisdictional determination with supporting documentation. Based on the aforementioned supporting documentation, the conditions as described in Part II: Findings under Section C Clean Water Act Section 404 and Section D Excluded Waters or Features were determined to be typical.
- C. Additional comments to support AJD:** A site visit was conducted by Corps’ personnel on October 10, 2018 in response to a Jurisdictional Determination Request dated August 29, 2018 under USACE ID# LRL-2018-765, no determination was provided. It was concluded a complete wetland delineation would be required for the Corps to make a final determination about the exact size and jurisdictional status of "Waters of the United States" on the property. As a result of a completed delineation, an additional site visit was conducted by Corps’ personnel on August 5, 2021. It was determined the above identified aquatic resources were “non-jurisdictional” due the lack of a hydrological connection to (a)(1) – (a)(4) 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 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.

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.