



**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): 8/19/2020
 ORM Number: LRL-2017-00048
 Associated JDs: N/A
 Review Area Location¹: State/Territory: KY City: Beattyville County/Parish/Borough: Owsley/Lee
 Center Coordinates of Review Area: Latitude 37.497100 Longitude -83.726438

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.	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.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
UT to Buck Creek 141+67.93	145	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows and pools year round. Tributary serves as a connection between upstream and downstream jurisdictional channels.
UT to Buck Creek 51+05.08	335	linear feet	(a)(2) Intermittent tributary contributes	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.

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 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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(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.	
UT to Buck Creek 152+00.00	15	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows and pools year round. Tributary serves as a connection between upstream and downstream jurisdictional channels.
UT to Elk Lick 50+73.25	190	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
UT to Elk Lick 182+53.97	375	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
UT to Elk Lick 184+10.00	30	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
Elk Lick 184+18.00	80	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows and pools year round. Tributary serves as a connection between upstream and downstream jurisdictional channels.
UT to Elk Lick 208+40.58	465	linear feet	(a)(2) Perennial tributary contributes	Tributary surface water flows and pools year round. Tributary serves as a connection between upstream and downstream jurisdictional channels.



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(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.	
UT to Elk Lick 221+00.00	350	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
UT to Elk Lick 232+77.65	6	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows and pools year round. Tributary serves as a connection between upstream and downstream jurisdictional channels.
UT to Elk Lick 232+87.93	335	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
UT to Elk Lick 232+85.56	11	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
UT to Elk Lick 253+00.37	1105	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
Long Branch 279+81.00	145	linear feet	(a)(2) Intermittent tributary contributes	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.



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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.	
UT to Long Branch 299+17.40	235	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
Long Branch 50+67.58	410	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows and pools year round. Tributary serves as a connection between upstream and downstream jurisdictional channels.
UT to Long Branch 309+00.00	470	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
Long Branch 51+00.00	165	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows and pools year round. Tributary serves as a connection between upstream and downstream jurisdictional channels.
UT to Long Branch 320+43.88	275	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
UT to Long Branch 333+23.30	250	linear feet	(a)(2) Perennial tributary contributes	Tributary surface water flows and pools year round. Tributary serves as a connection between upstream and downstream jurisdictional channels.



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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.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
UT to Elk Lick Wetland 5 247+78.70	0.121	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland abuts UT to Elk Lick 253+00.37 an intermittent tributary.
UT to Long Branch Wetland 9 283+47.60	0.071	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.	Wetland abuts Long Branch 279+81.00 an intermittent tributary.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
UT to Buck Creek 151+91.60	130	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 174+02.70	20	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 51+00.00	65	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT Elk Lick 100+40.00	85	linear feet	(b)(3) Ephemeral feature, including	Tributary surface water only flows or pools in direct response to precipitation. Tributary does

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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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			an ephemeral stream, swale, gully, rill, or pool.	not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 193+40.31	50	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 196+06.00	25	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick	70	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
Open Water 1 202+24.50	225	linear feet	(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).	Open water is constructed in a (b)(3) ephemeral feature.
Wetland 2 202+24.50	0.013	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) water.
Wetland 1 202+65.30	0.043	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) water.
UT to Elk Lick 208+56.80	20	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 234+64.00	35	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 234+97.54	5	linear feet	(b)(3) Ephemeral feature, including	Tributary surface water only flows or pools in direct response to precipitation. Tributary does



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			an ephemeral stream, swale, gully, rill, or pool.	not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 249+44.80	95	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 250+12.37	40	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 255+31.90	40	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 52+94.50	310	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
Open Water 4 265+00.00	60	linear feet	(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).	Open water is constructed in a (b)(3) ephemeral feature.
UT to Elk Lick 266+75.92	855	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
Wetland 11 45+78.00	0.091	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) water.
Wetland 8 279+00.00	0.080	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) water.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
UT to Long Branch 280+62.24	155	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Long Branch 289+53.20	60	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Long Branch 295+31.85	70	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
Wetland 10 294+33.00	0.018	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) water.
UT to Long Branch 302+18.50	115	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Long Branch 315+48.90	80	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Long Branch 326+82.43	165	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Long Branch 339+70.14	50	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
Wetland 12 341+81.90	0.111	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) water.
UT to Long Branch 347+87.70	265	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
Wetland 13 355+35.00	0.160	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) water.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Open Water 5 356+64.60	65	linear feet	(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).	Open water is constructed in a (b)(3) ephemeral feature.
UT to Long Branch 365+32.53	150	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 255+91.46	250	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Long Branch 280+62.24	180	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
Open Water 3 277+00.00	88	linear feet	(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).	Open water is constructed in a (b)(3) ephemeral feature.
Wetland 8 279+00.00	0.060	linear feet	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) 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.



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- Information submitted by, or on behalf of, the applicant/consultant: [Modification Application](#)
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: [AJD August 18, 2020](#)
- Photographs: [Select. Title\(s\) and/or date\(s\).](#)
- Corps site visit(s) conducted on: [2/23/2017, 3/13/2020](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [LRL-2020-00048](#)
- 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: [ArcGIS Kentucky Elevation Data](#)

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.

B. Typical year assessment(s): [The corresponding APT report for this geographic region during a 90 day time range was indicative of wetter than normal conditions, however for the past 30 day period a normal precipitation event log was recorded. The in-field observations made were reflective of the definition of an ephemeral channel and exhibited no flow or pooling of water immediately following a precipitation event.](#)

C. Additional comments to support AJD: [N/A or provide additional discussion as appropriate.](#)