



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): July 20, 2021

ORM Number: LRL-2017-1119-sea

Associated JDs: LRL-2017-1119 AJD dated December 19, 2017 and PJD dated December 22, 2017.

Review Area Location¹:

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

Center Coordinates of Review Area: Latitude 38.254332 Longitude -85.451389

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
NWPR PER 1 (Brush Run)	2275 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Brush Run ranges from ten to twenty feet wide with substrate that consists of silt, gravel, and cobble. Brush Run flows to Floyds Fork, to the Salt River, a section 10, and then the Ohio River, a traditional navigable water (TNW).
NWPR INT 1	1450 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	NWPR INT 1 above NWPR OW 2 ranges from two to four feet wide with substrate that consists of silt, sand, and cobble. NWPR INT 1 below NWPR OW 2 ranges from six to eight feet wide with substrate that consists of silt, gravel, and cobble. NWPR INT 1 flows into Brush Run, to the Salt River, a section 10, and then the Ohio River, TNW.

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

NWPR INT 2	100 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	NWPR INT 2 ranges from three to six feet wide with substrate that consists of silt, gravel, and cobble. NWPR INT 2 flows into NWPR INT 1 which flows into Brush Run, to the Salt River, a section 10, and then the Ohio River, TNW.
NWPR INT 3	240 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	NWPR INT 3 ranges from five to eight feet wide with substrate that consists of silt, gravel, and cobble. NWPR INT 3 flows into Brush Run, to the Salt River, a section 10, and then the Ohio River, TNW.
NWPR INT 4	355 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	NWPR INT 4 ranges from six to ten feet wide with substrate that consists of silt, gravel, and cobble. NWPR INT 4 flows into Brush Run, to the Salt River, a section 10, and then the Ohio River, TNW.
NWPR INT 5	1015 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	NWPR INT 5 ranges from six to eight feet wide with substrate that consists of silt, gravel, and cobble. NWPR INT 5 flows into Brush Run, to the Salt River, a section 10, and then the Ohio River, TNW.
NWPR INT 6	985 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	NWPR INT 6 ranges from six to eight feet wide with substrate that consists of silt, gravel, and cobble. NWPR INT 6 flows into Brush Run, to the Salt River, a section 10, and then the Ohio River, TNW.
NWPR INT 7	315 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	NWPR INT 7 ranges from four to six feet wide with substrate that consists of silt. NWPR INT 7 flows into Brush Run, to the Salt River, a section 10, and then the Ohio River, TNW.

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
NWPR OW 2	0.832 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	NWPR OW 2 is an impoundment of NWPR INT 1. NWPR INT 1 flows into Brush Run, to the Salt River, a section 10, and then the Ohio River, TNW.
NWPR OW 4	0.038 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	NWPR OW 4 is located between NWPR EPH 7 and NWPR INT 6. NWPR INT 7 flows into Brush Run, to the Salt River, a section 10, and then the Ohio River, TNW.

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
NWPR WET 1	0.144 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	NWPR WET 1 is an emergent wetland fringe that abuts NWPR OW 4. NWPR OW 4 flows into NWPR INT 6 which flows into Brush Run, to the Salt River, a section 10, and then the Ohio River, TNW.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
----------------	----------------	------------------------	---------------------------------------

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

NWPR EPH 1	470 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NWPR EPH 1 only contains surface water flowing or pooling in direct response to precipitation. NWPR EPH 1 is a (b)(3) water and is therefore excluded from the rule.
NWPR EPH 2	620 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NWPR EPH 2 only contains surface water flowing or pooling in direct response to precipitation. NWPR EPH 2 is a (b)(3) water and is therefore excluded from the rule.
NWPR EPH 3	210 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NWPR EPH 3 only contains surface water flowing or pooling in direct response to precipitation. NWPR EPH 3 is a (b)(3) water and is therefore excluded from the rule.
NWPR EPH 4	285 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NWPR EPH 4 only contains surface water flowing or pooling in direct response to precipitation. NWPR EPH 4 is a (b)(3) water and is therefore excluded from the rule.
NWPR EPH 5	480 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NWPR EPH 5 only contains surface water flowing or pooling in direct response to precipitation. NWPR EPH 5 is a (b)(3) water and is therefore excluded from the rule.
NWPR EPH 6	90 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NWPR EPH 6 only contains surface water flowing or pooling in direct response to precipitation. NWPR EPH 6 is a (b)(3) water and is therefore excluded from the rule.
NWPR EPH 7	530 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NWPR EPH 7 only contains surface water flowing or pooling in direct response to precipitation. NWPR EPH 7 is a (b)(3) water and is therefore excluded from the rule.
NWPR EPH 8	190 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NWPR EPH 8 only contains surface water flowing or pooling in direct response to precipitation. NWPR EPH 8 is a (b)(3) water and is therefore excluded from the rule.
NWPR EPH 9	275 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NWPR EPH 9 only contains surface water flowing or pooling in direct response to precipitation. NWPR EPH 9 is a (b)(3) water and is therefore excluded from the rule.
NWPR EPH 10	385 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NWPR EPH 10 only contains surface water flowing or pooling in direct response to precipitation. NWPR EPH 10 is a (b)(3) water and is therefore excluded from the rule.
NWPR EPH 11	95 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NWPR EPH 11 only contains surface water flowing or pooling in direct response to precipitation. NWPR EPH 11 is a (b)(3) water and is therefore excluded from the rule.
NWPR EPH 12	155 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NWPR EPH 12 only contains surface water flowing or pooling in direct response to precipitation. NWPR EPH 12 is a (b)(3) water and is therefore excluded from the rule.
NWPR EPH 13	55 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NWPR EPH 13 only contains surface water flowing or pooling in direct response to precipitation. NWPR EPH 13 is a (b)(3) water and is therefore excluded from the rule.

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

NWPR EPH 14	200 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NWPR EPH 14 only contains surface water flowing or pooling in direct response to precipitation. NWPR EPH 14 is a (b)(3) water and is therefore excluded from the rule.
NWPR OW 1	0.037 acres	(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)	NWPR OW 1 was dug in the uplands prior to 1956 and is physically isolated in the landscape.
NWPR OW 3	0.143 acres	(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)	NWPR OW 3 was dug in the uplands prior to 1959 and is physically isolated in the landscape.
NWPR OW 5	0.143 acres	(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)	NWPR OW 5 was dug in the uplands prior to 1951 and is physically isolated in the landscape.

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: PCN for the Overlook at Eastwood Section 2 dated June 1, 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: Site Photographs taken June 1-2 and August 3, 2017; Aerial from kygisserver.ky.gov ArcGIS Services (2018).

Corps Site visit(s) conducted on: December 13, 2017

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: SSURGO database, Jefferson County, Kentucky 2008

USFWS NWI maps: *Title(s) and/or date(s)*.

USGS topographic maps: Fisherville and Crestwood, KY Quads – 1:24,000

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.

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

USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	HistoricAerials.com accessed July 14, 2021.

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

Additional comments to support AJD: The waters in this AJD were originally documented in an AJD dated December 19, 2017 and PJD dated December 22, 2017. There has been no land use changes or development in the watershed that would significantly alter the flow patterns of the stream channels.

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.