



**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): 7/20/2021  
 ORM Number: LRL-2018-33  
 Associated JDs: LRL-2018-33-CAT  
 Review Area Location<sup>1</sup>: State/Territory: KY City: Henderson County/Parish/Borough: Henderson  
 Center Coordinates of Review Area: Latitude 37.79653 Longitude -87.63203

**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
1MS7	2,274	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	1MS7 is a stream that has hydrological and physical characteristics of a perennial stream. Flows east to Canoe Creek. See assessments attached.
1MS7D	134	linear feet	(a)(2) Intermittent tributary contributes	1MS7D is a stream that has hydrological and physical characteristics of an intermittent stream. Flows north to 1MS7. See assessments attached.

<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.	
1MS7E	444	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	1MS7E is a stream that has hydrological and physical characteristics of an intermittent stream. Flows south to 1MS7. See assessments attached.
1MS6	233	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	1MS6 is a stream that has hydrological and physical characteristics of an intermittent stream. Flows south off-site to Wilson Creek. See assessments attached.
		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
1MO4	0.56	acre(s)	(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.	1MO4 is a pond created when a berm was constructed across the valley. Its water comes from precipitation and 1MW7. See assessment attached.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
1MW7	1.55	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	1MW7 is in a wet valley impounded by an artificial pond. The berm constructed for the pond is all that separates 1MW7 from 1MS7D which is an intermittent stream. See assessment attached.



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Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
		wetland and the (a)(1)-(a)(3) water, in a typical year.	

**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
1MS7A	240	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	1MS7A displayed hydrological and physical characteristics of an ephemeral drainage. Flows north to 1MS7. See assessment attached.
1MO1	0.20	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	1MO1 has ephemeral features above and below it and is not inundated by an (a)(1)-(a)(3) water in a typical year. See assessment attached.
1ASC7A-1	389	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	1ASC7A-1 is an ephemeral swale. See assessment attached.
1AW12	0.22	acre(s)	(b)(1) Non-adjacent wetland.	1AW12 met wetland criteria but does not physically abut, nor is inundated by an a(1) – a(3) water in a typical year. See assessment attached.
1MS7B	128	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	1MS7B displayed hydrological and physical characteristics of an ephemeral drainage. Flows north to 1MS7. See assessment attached.
1MS7C-2	295	linear feet	(b)(3) Ephemeral feature, including an ephemeral	1MS7C-2 displayed hydrological and physical characteristics of an ephemeral drainage. Flows north to 1MS7. See assessment attached.

<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
		stream, swale, gully, rill, or pool.	
1MO2	0.70 acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	1MO2 has ephemeral features above and below it and is not inundated by an (a)(1)-(a)(3) water in a typical year. See assessment attached.
1MW4	0.05 acre(s)	(b)(1) Non-adjacent wetland.	1MW4 met wetland criteria but does not physically abut, nor is inundated by an a(1) – a(3) water in a typical year. See assessment attached.
1AS7C	209 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	1AS7C displayed hydrological and physical characteristics of an ephemeral drainage. Flows north to 1MW4. See assessment attached.
1MSC7C-1	238 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	1MSC7C-1 is an ephemeral swale. See assessment attached.
1MO3	0.26 acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	1MO3 has ephemeral features below it and is not inundated by an (a)(1)-(a)(3) water in a typical year. See assessment attached.
1MS7E-1	525 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	1MS7E-1 displayed hydrological and physical characteristics of an ephemeral drainage. Flows south to 1MS7E. See assessment attached.
1MS7D-1	101 linear feet	(b)(3) Ephemeral feature, including an ephemeral	1MS7D-1 displayed hydrological and physical characteristics of an ephemeral drainage. Flows south to 1MW7. See assessment attached.



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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	
			stream, swale, gully, rill, or pool.	
1MW15	0.24	acre(s)	(b)(1) Non-adjacent wetland.	1MW15 met wetland criteria but does not physically abut, nor is inundated by an a(1) – a(3) water in a typical year. See assessment attached.
1MW2	0.08	acre(s)	(b)(1) Non-adjacent wetland.	1MW2 met wetland criteria but does not physically abut, nor is inundated by an a(1) – a(3) water in a typical year. See assessment attached.
1AS6A1	413	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	1AS6A1 displayed hydrological and physical characteristics of an ephemeral drainage. Flows south to 1MS6A. See assessment attached.
1MW5	0.67	acre(s)	(b)(1) Non-adjacent wetland.	1MW5 met wetland criteria but does not physically abut, nor is inundated by an a(1) – a(3) water in a typical year. See assessment attached.
1MW6	0.47	acre(s)	(b)(1) Non-adjacent wetland.	1MW6 met wetland criteria but does not physically abut, nor is inundated by an a(1) – a(3) water in a typical year. See assessment attached.
1MW8	0.20	acre(s)	(b)(1) Non-adjacent wetland.	1MW8 met wetland criteria but does not physically abut, nor is inundated by an a(1) – a(3) water in a typical year. See assessment attached.
1MW9	0.09	acre(s)	(b)(1) Non-adjacent wetland.	1MW9 met wetland criteria but does not physically abut, nor is inundated by an a(1) – a(3) water in a typical year. See assessment attached.
1MW16	0.25	acre(s)	(b)(1) Non-adjacent wetland.	1MW16 met wetland criteria but does not physically abut, nor is inundated by an a(1) – a(3) water in a typical year. See assessment attached.
1MS6A	2,308	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	1MS6A displayed hydrological and physical characteristics of an ephemeral drainage. Flows east to 1MS6. See assessment attached.

**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: [Wetland Delineation, May 23, 2018](#)  
This information is sufficient for purposes of this AJD.  
Rationale: [N/A](#)



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- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial and Other: Stream and Wetland Photos, April 23, 2018; Google Earth 2018](#)
- Corps site visit(s) conducted on: [Date\(s\)](#).
- Previous Jurisdictional Determinations (AJDs or PJDs): [LRL-2018-33-CAT](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [SSURGO Database for Henderson, KY 2018](#)
- USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).
- USGS topographic maps: [14Jun2021; 1:24,000 – Wilson, Ky/Henderson, KY](#)

**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>	<a href="#">N/A.</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">N/A.</a>

**B. Typical year assessment(s):** [N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.](#)

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