



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): April 22, 2021

ORM Number: LRL-2018-00526

Associated JDs: A Preliminary Jurisdictional Determination was issued for the identified waters in 2018 under USACE ID# LRL-2018-00526 in association with a Nationwide Permit #29 (2017) issuance.

Review Area Location¹:

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

Center Coordinates of Review Area: Latitude 38.26768 Longitude -85.450241

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
- 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
Intermittent Stream 1 NWPR	575 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Intermittent Stream 1 is an intermittent tributary that contributes surface flow during certain times of the year and more than in direct response to precipitation to an (a)(1) water in a typical year.

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

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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.

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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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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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Ephemeral 1 NWPR	315 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The tributary only contains surface flow or pools in direct response to precipitation events. The identified tributary is a (b)(3) water and is therefore excluded from the rule.
Ephemeral 10 NWPR	215 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The tributary only contains surface flow or pools in direct response to precipitation events. The identified tributary is a (b)(3) water and is therefore excluded from the rule.
Ephemeral 2 NWPR	15 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The tributary only contains surface flow or pools in direct response to precipitation events. The identified tributary is a (b)(3) water and is therefore excluded from the rule.
Ephemeral 3 NWPR	105 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The tributary only contains surface flow or pools in direct response to precipitation events. The identified tributary is a (b)(3) water and is therefore excluded from the rule.
Ephemeral 4 NWPR	40 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The tributary only contains surface flow or pools in direct response to precipitation events. The identified tributary is a (b)(3) water and is therefore excluded from the rule.
Ephemeral 5 NWPR	20 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The tributary only contains surface flow or pools in direct response to precipitation events. The identified tributary is a (b)(3) water and is therefore excluded from the rule.
Ephemeral 6 NWPR	275 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The tributary only contains surface flow or pools in direct response to precipitation events. The identified tributary is a (b)(3) water and is therefore excluded from the rule.
Ephemeral 7 NWPR	15 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The tributary only contains surface flow or pools in direct response to precipitation events. The identified tributary is a (b)(3) water and is therefore excluded from the rule.
Ephemeral 8 NWPR	45 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The tributary only contains surface flow or pools in direct response to precipitation events. The identified tributary is a (b)(3) water and is therefore excluded from the rule.
Ephemeral 9 NWPR	60 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The tributary only contains surface flow or pools in direct response to precipitation events. The identified tributary is a (b)(3) water and is therefore excluded from the rule.
Open Water 1 NWPR	0.63 acres	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an	Open water 1 is isolated and does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-

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		(a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year	(a)(3) water in a typical year.
Open water 2 NWPR	0.307 acres	(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	Open water 2 is isolated and 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.
Wetland 1 NWPR	0.031 acres	(b)(1) Non-adjacent wetland	Wetland 1 is an isolated feature and is not adjacent to nor inundated by an (a)(1)-(a)(3) water in a typical year.
Wetland 2 NWPR	0.014 acres	(b)(1) Non-adjacent wetland	Wetland 2 is an isolated feature and is not adjacent to nor inundated by an (a)(1)-(a)(3) water in a typical year.
Wetland 3 NWPR	0.059 acres	(b)(1) Non-adjacent wetland	Wetland 3 is an isolated feature and is not adjacent to nor inundated by an (a)(1)-(a)(3) water in a typical year.
Wetland 4 NWPR	0.092 acres	(b)(1) Non-adjacent wetland	Wetland 4 is an isolated feature and is not adjacent to nor inundated by an (a)(1)-(a)(3) water in a typical year.

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: *Request for Jurisdictional Determination, Courtyard at Aiken, Jefferson County, Kentucky, Redwing Project No.: 17-155 dated February 1, 2021.*

This information is sufficient for purposes of this AJD.

Rationale: *N/A*

Data sheets prepared by the Corps: *N/A*

Photographs: *aerial and other. World Imagery - Esri and the GIS User Community (2019) and site photographs on September 28, 2017 (submitted by the agent). USACE Regulatory Viewer with NHD layer, Google Earth PRO (2018), and Google Maps with terrain overlay.*

Corps Site visit(s) conducted on *June 28, 2018*

Previous Jurisdictional Determinations (AJDs or PJDs): *PJD, LRL-2018-00526-jwr (2018).*

Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*

USDA NRCS Soil Survey: *SSURGO, Jefferson Co., Ky (submitted by the agent).*

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

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

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.

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Other Sources	N/A.
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- B. Typical year assessment(s):** Typical year assessment was conducted utilizing desktop tools, previous jurisdictional determinations, and the submitted request for jurisdictional determination with supporting documentation. Based on the aforementioned 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 Preconstruction Notification (PCN) for Nationwide Permit (NWP) 29 and an Addendum dated June 5, 2018 and September 14, 2018, respectively, were submitted in support of the residential development of the site. The discharge of fill material into "Waters of the U.S." was verified in accordance with the terms and conditions of NWP# 29 in a letter dated November 2, 2018 (USACE ID No. LRL-2018-526-jwr). Perfection Builders requested the issuance of a new Jurisdictional Determination (JD) under the Navigable Waters Protection Rule, effective June 22, 2020, for waters that have not been impacted during the previous phase of the proposed residential development. Based on submitted documentation the site conditions remain the same and retain aquatic resource characteristics consistent with determinations made regarding the 2018 NWP# 29 verification issuance.

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