



**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): 7/27/2020
 ORM Number: LRL-2019-00930-mlk
 Associated JDs: N/A
 Review Area Location¹: State/Territory: KY City: Enter. County/Parish/Borough: Boone
 Center Coordinates of Review Area: Latitude 38.915133 Longitude -84.625638

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 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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D. Excluded Waters or Features

| Excluded waters ((b)(1) – (b)(12)): ⁴ | | | |
|--|--------------------|---|--|
| Exclusion Name | Exclusion Size | Exclusion ⁵ | Rationale for Exclusion Determination |
| Wetland A | 0.522 acre(s) | (b)(1) Non-adjacent wetland. | Wetland A was once a farm pond but had been breached at some point in time and drained, therefore creating wetland conditions. It appears that the majority of the input comes from ephemeral runoff from the surrounding uplands. There are no (a)(1),(a)(2) or (a)(3) waters located within the review area. The closest potential (a)(2) tributary is located downstream of the ephemerals just off-site. The wetland does not meet the definition of adjacent wetlands per 33 CFR 328.3 (c)(1)(i)(ii)(iii) or (iv), and is therefore excluded per (b)(1) as non-adjacent wetland. |
| Wetland B | 0.563 acre(s) | (b)(1) Non-adjacent wetland. | Wetland B was once a farm pond but had been breached at some point in time and drained, therefore creating wetland conditions. It appears that the majority of the input comes from ephemeral runoff from the surrounding uplands as well as Wetland A which is directly upslope. There are no (a)(1),(a)(2) or (a)(3) waters located within the review area. The closest potential (a)(2) tributary is located downstream of the ephemerals just off-site. The wetland does not meet the definition of adjacent wetlands per 33 CFR 328.3 (c)(1)(i)(ii)(iii) or (iv), and is therefore excluded per (b)(1) as non-adjacent wetland. |
| Stream 1 | 526 linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | Based on site photos, lack of stream flow and the APT assessment this feature is an ephemeral feature. |
| Stream 2 | 733 linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | Based on site photos, lack of stream flow and the APT assessment this feature is an ephemeral feature. |

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.

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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- Information submitted by, or on behalf of, the applicant/consultant: [Wetland/Stream Reconnaissance Report by Anchor Properties dated July 15, 2019.](#)
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: [Select. Title\(s\) and/or date\(s\).](#)
- Corps site visit(s) conducted on: [Date\(s\).](#)
- 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: [Title\(s\) and/or date\(s\).](#)
- USFWS NWI maps: [National Wetland Inventory map included in the delineation report submitted by the authorized agent.](#)
- USGS topographic maps: [Title\(s\) and/or date\(s\).](#)

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 | Weather Underground, https://www.wunderground.com/ |

B. Typical year assessment(s): [The Antecedent Precipitation Tool \(APT\) was used to evaluate climatic conditions for the date the consultant completed the delineation field work, October 26, 2018. The APT analysis shows that the precipitation and climatic conditions were within the normal periodic range during the wet season, therefore typical year conditions were present.](#)

[Additionally, rainfall records were obtained from the closest weather station \(Cincinnati/Northern Kentucky International Airport Station\) for dates prior to the fieldwork. Records show that there was no rainfall during the 3 days prior to the fieldwork and 0.02 inches fell on the date the fieldwork was performed. Based on site photos in the delineation report, there was some pools of standing water in Stream 1 and Stream 2, but there wasn't consistent flowing water. As typical year conditions were present, and no flow to very little flow was observed in the streams, the APT assessment provides further evidence that the streams are ephemeral features.](#)

C. Additional comments to support AJD: [N/A.](#)