



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): 30-NOV-2020

ORM Number: LRL-2019-00833

Associated JDs: N/A

Review Area Location¹:

State/Territory: KY City: Hebron County/Parish/Borough: Boone County

Center Coordinates of Review Area: Latitude 39.068995 Longitude -84.689234

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
Stream-1a	7.77 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream-1a is an (a)(2) water with a ground water influenced intermittent stream flow regime.
Stream-1b	22.69 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream-1b is an (a)(2) water with a ground water influenced intermittent stream flow regime.
Stream-1c	29.61 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream-1c is an (a)(2) water with a ground water influenced intermittent stream flow regime.

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.

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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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Stream-1d	32.69 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream-1d is an (a)(2) water with a ground water influenced intermittent stream flow regime.
Stream-1e	43.57 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream-1e is an (a)(2) water with a ground water influenced intermittent stream flow regime.

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
Wetland-1	0.0074 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland-1 is an (a)(4) water directly abutting an (a)(2) water.
Wetland-2	0.0289 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland-2 is an (a)(4) water directly abutting an (a)(2) water.
Wetland-3	0.0042 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland-3 is an (a)(4) water directly abutting an (a)(2) water.
Wetland-4	0.0018 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland-4 is an (a)(4) water directly abutting an (a)(2) water.
Wetland-5	0.002 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland-5 is an (a)(4) water directly abutting an (a)(2) water. Wetland-5 contains a ground water seep at Lat. 39.06913, Long. -84.68905.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Ephemeral-1	146.84 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral-1 is not an (a)(1-4) water. Ephemeral-1 did not exhibit an identifiable ground water source. Ephemeral-1 previously received flow from a retention basin off site. The off-site basin has been modified to redirect flow away from Ephemeral-1. The site visit was conducted during the wet season and flow was present in the channel.
Ephemeral-2	73.09 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral-2 is not an (a)(1-4) water. Ephemeral-2 did not exhibit an identifiable ground water source. Ephemeral-2 previously received flow from a retention basin off site. the off-site basin has been modified to redirect flow away from Ephemeral-2. The site visit was conducted during the wet season and flow was present in the channel.
Ephemeral-3	30.88 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral-3 is not an (a)(1-4) water. Ephemeral-3 did not exhibit an identifiable ground water source. The site visit was conducted during the wet season and flow was not present in the channel.
Ephemeral-4	18.23 feet	(b)(3) Ephemeral feature, including	Ephemeral-4 is not an (a)(1-4) water. Ephemeral-4 did

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		an ephemeral stream, swale, gully, rill, or pool	not exhibit an identifiable ground water source. The site visit was conducted during the wet season and flow was not present in the channel.
Wetland-6	0.007 acres	(b)(1) Non-adjacent wetland	Wetland-6 is not an (a)(1-4) water. Wetland-6 was connected to downstream waters via an ephemeral stream channel.
Wetland-7	0.007 acres	(b)(1) Non-adjacent wetland	Wetland-7 is not an (a)(1-4) water. Wetland-7 was connected to downstream waters via an ephemeral stream channel.

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: *Approved Jurisdictional Determination Request, submitted by Palmer Engineering: dated October, 28, 2020.*

This information (*is/is not/is and is not*) sufficient for purposes of this AJD.

Rationale: *N/A or describe rationale for insufficiency (including partial insufficiency).*

Data sheets prepared by the Corps: *Title(s) and/or date(s).*

Photographs: (*aerial and other*) *Google Earth, 2020; Photos and Maps provided within the Approved Jurisdictional Determination Request.*

Corps Site visit(s) conducted on: *November 18, 2020.*

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: *Title(s) and/or date(s).*

USGS topographic maps: *1:24,000: Burlington, KY.*

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	Stream flow data provided by the applicant.

B. Typical year assessment(s): The PDSI Index indicates “Extreme Wetness” at the project location. The Web WIMP H2O Balance indicates the determination was conducted during a wet season. The Antecedent Precipitation Tool determined that during the 90 days prior to the date of the site visit (November 18, 2020) normal conditions existed at the project site.

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- C. Additional comments to support AJD:** The project site was cleared of trees and debris in 2018. The stream channels were cleared of regrowth in 2020. The 2020 clearing activities caused disturbances in the stream channels and wetlands, but the flow was still contained within the channel and vegetation was returning to the wetlands.

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