



**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): 7/13/2020

ORM Number: LRL-2020-66-mlk

Associated JDs: N/A

Review Area Location¹: State/Territory: Kentucky City: Prospect County/Parish/Borough: Jefferson

Center Coordinates of Review Area: Latitude 38.357201 Longitude -85.609260

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
Int 1	805	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
			Intermittent 1 contained flowing water with pools up to six inches in depth and had silt, gravel, and cobble stream bottom. Intermittent 1 contributes flow to Harrods Creek, which is a tributary of the Ohio River, a traditionally navigable water, which is an a(1) water.

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

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.	

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Eph 1	6	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 1 only contains surface water flowing or pooling in direct response to precipitation. Eph 1 is a (b)(3) water and is therefore excluded from the rule.
Eph 2	208	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Eph 2 only contains surface water flowing or pooling in direct response to precipitation. Eph 2 is a (b)(3) water and is therefore excluded from the rule.
Wet 1	0.361	acre(s)	(b)(1) Non-adjacent wetland.	Wetland neither abuts nor is inundated by floodwater in a typical year from an (a)(1)-(a)(3) water. Wet 1 is a (b)(1) water and is therefore excluded from the rule.
Open Water 1	0.179	acre(s)	(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).	Pond excavated in the upland for farming practices. Open Water 1 is a (b)(8) water and is therefore excluded from the rule.

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 NWP 29 for LDG Development submitted on January 16, 2020 by Redwing Ecological Services, Inc.](#)

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**

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: kygisserver.ky.gov ArcGIS services (2016) and site photographs on November 19, 2018
- Corps site visit(s) conducted on: January 28, 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: SSURGO, Jefferson Co, KY (2008).
- USFWS NWI maps: Title(s) and/or date(s).
- USGS topographic maps: 1:24,000-Anchorage, KY quad

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 Historic Precipitation Data (WUHPD).

- B. Typical year assessment(s):** The Antecedent Precipitation Tool was utilized for the day of the site visit January 28, 2020. The data shows that the day of the site visit was during wetter than normal conditions during the wet season.
- C. Additional comments to support AJD:** WUHPD was reviewed for January 2020 to see the precipitation totals for the days leading up to the site visit. The Louisville International Airport Weather Station, located approximately 17 miles from the project site, recorded 3.89 inches of rain for the 28 days prior to the site visit. This included 0.64 inches of rain 4 days prior to the site visit. At this time and location it was considered a wetter than normal time, therefore, the ground was saturated and even the ephemerals contained a small portion of flowing water. Conditions do not represent a typical year.