



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): 06-AUG-2020

ORM Number: LRL-2020-00668-MAD

Associated JDs: N/A

Review Area Location¹:

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

Center Coordinates of Review Area: Latitude 37.613177 Longitude -84.298196

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
LRL-2020-668, Intermittent 1	313 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The stream channel ranges from three to five feet wide with substrate that consists of silt/clay, sand, gravel, and cobble. The stream exhibits a morphology characteristic of intermittent streams in the region. During the March 12, 2020 site visit the channel contained flowing and pooled water which flows to Silver Creek, then onto the Kentucky River, an (a)(1) water.
LRL-2020-668, Intermittent 2	412 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The stream channel ranges from five to seven feet wide with substrate that consists of silt/clay, sand, gravel, and bedrock. The stream exhibits a morphology characteristic of intermittent streams in the region. 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 and 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.

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

		portion of the stream is impounded and form an emergent wetland. During the March 12, 2020 site visit the channel contained flowing and pooled water which flows to Silver Creek, then onto the Kentucky River, an (a)(1) water.
--	--	--

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
LRL-2020-668, Wetland 1	0.153 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 1 has formed in an old impoundment of Intermittent Stream 2, an (a) (2) water.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
LRL-2020-668, Ephemeral 1	91 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream only contains surface water flowing or pooling in direct response to precipitation. During the March 12, 2020 site assessment, the channel had pooled water during wetter than normal conditions during the wet season. The feature has a morphology typical of an ephemeral stream in this region.
LRL-2020-668, Ephemeral 2	329 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream only contains surface water flowing or pooling in direct response to precipitation. During the March 12, 2020 site assessment, the channel had pooled water during wetter than normal conditions during the wet season. The feature has a morphology typical of an ephemeral stream in this region.
LRL-2020-668, Ephemeral 3	126 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream only contains surface water flowing or pooling in direct response to precipitation. During the March 12, 2020 site assessment, the channel had pooled water during wetter than normal conditions during the wet season. The feature has a morphology typical of an ephemeral stream in this region.
LRL-2020-668, Ephemeral 4	101 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream only contains surface water flowing or pooling in direct response to precipitation. During the March 12, 2020 site assessment, the channel had pooled water during wetter than normal conditions during the wet season. The feature has a morphology typical of an ephemeral stream in this region.
LRL-2020-668, Ephemeral 5	542 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream only contains surface water flowing or pooling in direct response to precipitation. During the March 12, 2020 site assessment, the channel had pooled water during wetter than normal conditions during the wet season. The feature has a morphology typical of an ephemeral stream in this region.
LRL-2020-668,	72 feet	(b)(3) Ephemeral feature, including	The stream only contains surface water flowing or

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.

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

Ephemeral 6		an ephemeral stream, swale, gully, rill, or pool	pooling in direct response to precipitation. During the March 12, 2020 site assessment, the channel had pooled water during wetter than normal conditions during the wet season. The feature has a morphology typical of an ephemeral stream in this region.
-------------	--	--	--

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-Menelaus Site South* dated August 4, 2020
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: (*NA, aerial, other, aerial and other*) Site Assessments Photos dated March 12, 2020. Google Earth aerials(6/6/2018, 4/25/2017, 12/30/2015, 6/20/2010, 6/19/2004, 3/10/1997)
- ____ 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: *SSURGO, Madison County, Kentucky (2009)*
- USFWS NWI maps: *NWI Mapper*
- USGS topographic maps: *(2013) Richmond South and Berea, Kentucky 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.
Other Sources	N/A.

B. Typical year assessment(s): The Antecedent Precipitation Tool was utilized for the applicant's field assessment and site photos dated of March 12, 2020. The data shows that this date was during wetter than normal conditions in the wet season.

C. Additional comments to support AJD: Rapid Bioassessment Protocols and wetland delineations were conducted on the site dated March 12, 2020.

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 and 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.

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.