



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): 10-FEB-2021

ORM Number: LRL-2020-01091-MAD

Associated JDs: N/A

Review Area Location<sup>1</sup>:

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

Center Coordinates of Review Area: Latitude 37.887931 Longitude -84.555727

**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)<sup>2</sup>**

§ 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)<sup>3</sup>

(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-2020-1091, Intermittent 1	1190 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This stream originates at an off-site culvert associated with a detention basin located in the residential development north of the property. The stream enters the site in the northeastern portion of the property and flows south into Wetland 1, and then off site to Hickman Creek, and into the Kentucky River, an (a) (1) water. The portion of the stream upstream of the wetland is five to eight feet wide with bank heights of one to two feet. Pooled water up to two feet deep was present in this portion of the stream during the delineation, and flow was minimal due to the retention of water in the wetland. The substrate consists entirely of silt. Flowing

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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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			water from a few inches to two and a half feet deep was observed in the stream, and riffle/run/pool complexes are present. The stream exhibited morphology typical of intermittent stream in the region including continuous bed and bank, presence of substrate sorting, width and depth of ordinary high water mark, and the amount of flowing water observed during the site visit.
LRL-2020-1091, Intermittent 2	110 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This stream forms in the south-central portion of the property where Ephemeral Stream 5 transitions to intermittent flow due to inputs of groundwater. The stream is four to eight feet wide and has bank heights of one foot or less. The substrate includes gravel, cobble, boulders, and bedrock. Flowing water up to four inches deep was observed in the stream. The stream exhibited morphology typical of intermittent stream in the region including continuous bed and bank, presence of substrate sorting, width and depth of ordinary high water mark, and the amount of flowing water observed during the site visit. The stream flows off site to Hickman Creek, and into 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-2020-1091, Wetland 1	0.488 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 1 directly abuts Intermittent Stream 1, an (a) (2) water.
LRL-2020-1091, Wetland 2	0.134 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetlands 2 is directly connected to Intermittent 2, an (a) (2) water, through a culvert located in man-made berm between the two features.
LRL-2020-1091, Wetland 3	0.385 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetlands 3 is directly connected to Intermittent 2, an (a) (2) water, through a culvert located in man-made berm between the two features.

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
LRL-2020-1091, Ephemeral 1	395 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 1 flows directly into Intermittent Stream 1. The stream has a morphology typical of ephemeral stream in the region, and only contains surface water flowing or pooling in direct response to precipitation. During the delineation on December 9, 2020, the stream contained pooled water up to one inch deep in direct response to recent rainfall.

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REGULATORY PROGRAM  
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NAVIGABLE WATERS PROTECTION RULE

LRL-2020-1091, Ephemeral 2	1215 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream is a first order stream located in the east-central portion of the property, has a morphology typical of ephemeral stream in the region, and only contains surface water flowing or pooling in direct response to precipitation. During the delineation the stream contained pooled water up to three inches deep in direct response to recent rainfall. E The stream ends before flowing into downstream waters and is physically isolated from jurisdictional waters.
LRL-2020-1091, Ephemeral 3	125 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream is a first order stream which flows off site into a culvert associated with the adjacent residential development. The stream has a morphology typical of ephemeral stream in the region, and only contains surface water flowing or pooling in direct response to precipitation. During the delineation the upstream portion of the stream contained pooled water up to one inch deep in direct response to recent rainfall. The downstream portion of the stream did not exhibit flowing or pooled water.
LRL-2020-1091, Ephemeral 4	40 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral Streams 4 is in the south-central portion of the property and flows into Intermittent Stream 2, an (a) (2) water. The streams is a first order stream and has a morphology typical of ephemeral stream in the region, and only contains surface water flowing or pooling in direct response to precipitation. The majority of the stream channel was dry during the delineation, with small amounts of pooled water present in portions of some channels.
LRL-2020-1091, Ephemeral 5	230 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral Streams 5 is in the south-central portion of the property and flows into Intermittent Stream 2, an (a) (2) water. The streams is a first order stream and has a morphology typical of ephemeral stream in the region, and only contains surface water flowing or pooling in direct response to precipitation. The majority of the stream channel was dry during the delineation, with small amounts of pooled water present in portions of some channels.
LRL-2020-1091, Ephemeral 6	50 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 6 flows directly into Ephemeral 1, a (b) (3) excluded feature. The streams is a first order stream and has a morphology typical of ephemeral stream in the region, and only contains surface water flowing or pooling in direct response to precipitation. During the delineation on December 9, 2020, the stream did not exhibit flowing or pooled water.
LRL-2020-1091, Wetland 4	0.004 acres	(b)(1) Non-adjacent wetland	The wetland is located in the southwest of the property. The wetland is physically isolated from all other resources, and is not adjacent to a water of the U.S. or inundated by flooding from a water of the U.S. in a typical year.

### III. SUPPORTING INFORMATION

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

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**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 for Zuck Property* dated December 16, 2020 submitted by Redwing Ecological Services, Inc.  
This information (is 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) Photographs dated 12/9/2020 included with JD Request Google Earth aerial dated (4/19/2018, 9/22/2014, 06/14/2008, 03/31/2002, 03/14/1998, 12/30/1985)*
- 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: *Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey. Available online at <http://websoilsurvey.sc.egov.usda.gov/>. Accessed 02/09/2021*
- USFWS NWI maps: *National Wetlands Inventory website. U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. Available online at <http://www.fws.gov/wetlands/>. Accessed 02/09/2021*
- USGS topographic maps: *1:24,000 - Nicholasville and Little Hickman, Kentucky*

**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 December 9, 2020 site assessment. The data shows that the assessment was during normal conditions during the wet season. The site assessment was during typical year conditions.

**C. Additional comments to support AJD:** N/A

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