



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): 24-FEB-2021

ORM Number: LRL-2020-01092-MAD

Associated JDs: N/A

Review Area Location¹:

State/Territory: KY City: Louisville County/Parish/Borough: Jefferson County

Center Coordinates of Review Area: Latitude 38.128635 Longitude -85.705304

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-2020-1092, Intermittent 1	680 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Intermittent 1 is three to five feet wide with silt substrate. During the field assessment, Intermittent Stream 1 exhibited flowing water at depths of one to three inches. 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 into Southern Ditch, then to Pond Creek, and into Salt River, an (a)(1) water.
LRL-2020-1092, Mud Creek	2871 feet	(a)(2) Perennial tributary contributes surface water flow directly or	Mud Creek exhibits a morphology typical of perennial streams in the region. The stream is 15 to 20 feet wide

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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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		indirectly to an (a)(1) water in a typical year	with silt, gravel and cobble substrate and had a water depth of two feet during the site visit. The stream channel is mapped as a perennial stream on the USGS map and contained water in the channel in numerous aerial photos. The stream flows directly into Southern Ditch, then to Pond Creek, and into Salt River, an (a)(1) water.
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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-2020-1092, Wetland 4	0.056 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 4 abuts Per 1 via a culvert, which is 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-2020-1092, Ephemeral 1	58 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 1 is one to two feet wide, with one to two-foot bank heights and a silt substrate and exhibits a morphology typical of ephemeral streams in the region. Ephemeral 1 only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the field assessment.
LRL-2020-1092, Ephemeral 2	223 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 2 is one to two feet wide, with one to two-foot bank heights and a silt substrate and exhibits a morphology typical of ephemeral streams in the region. Ephemeral 2 only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the field assessment.
LRL-2020-1092, Wetland 1	7.623 acres	(b)(1) Non-adjacent wetland	Wetland 1 abuts a trenched ditch, which is an excluded feature.
LRL-2020-1092, Wetland 10	0.165 acres	(b)(1) Non-adjacent wetland	Wetland 10 is isolated and has no defined outlet or any surface connection to downstream waters.
LRL-2020-1092, Wetland 11	0.321 acres	(b)(1) Non-adjacent wetland	Wetland 11 is isolated and has no defined outlet or any surface connection to downstream waters.
LRL-2020-1092, Wetland 2	0.168 acres	(b)(1) Non-adjacent wetland	Wetland 2 is isolated and has no defined outlet or any surface connection to downstream waters.
LRL-2020-1092, Wetland 3	0.75 acres	(b)(1) Non-adjacent wetland	Wetland 3 is isolated and has no defined outlet or any surface connection to downstream waters.
LRL-2020-1092, Wetland 5	0.053 acres	(b)(1) Non-adjacent wetland	Wetland 5 is isolated and has no defined outlet or any surface connection to downstream waters.
LRL-2020-1092, Wetland 6	0.816 acres	(b)(1) Non-adjacent wetland	Wetland 6 abuts a trenched ditch, which is an excluded feature.
LRL-2020-1092, Wetland 7	1.222 acres	(b)(1) Non-adjacent wetland	Wetland 7 abuts a trenched ditch, which is an excluded feature.
LRL-2020-1092,	1.518 acres	(b)(1) Non-adjacent wetland	Wetland 8 abuts Ephemeral 1, which is a (b)(3)

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Wetland 8			excluded feature.
LRL-2020-1092, Wetland 9	0.047 acres	(b)(1) Non-adjacent wetland	Wetland 9 abuts a roadside ditch, which is an excluded feature.
LRL-2020-1092, Ditch 1	383 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The ditch feature is one to two feet wide with a silt substrate. The ditch only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the January 18 and 19, 2021 field assessment. The ditch was constructed in an upland areas as evident by the adjacent spoil piles and landscape position. Additionally, the ditch was observed to have silt substrate and the stream has a morphological, hydrological, and biological characteristics that indicate ephemeral flow.
LRL-2020-1092, Ditch 2	837 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The ditch feature is one to two feet wide with a silt substrate. The ditch only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the January 18 and 19, 2021 field assessment. The ditch was constructed in upland areas as evident by the adjacent spoil piles and landscape position. Additionally, the ditch was observed to have silt substrate and the stream has a morphological, hydrological, and biological characteristics that indicate ephemeral flow.
LRL-2020-1092, Ditch 3	125 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The ditch feature is two to three feet wide with a silt substrate. The ditch only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the January 18 and 19, 2021 field assessment. The ditch was constructed in upland areas as evident by the adjacent spoil piles and landscape position. Additionally, the ditch was observed to have silt substrate and the stream has a morphological, hydrological, and biological characteristics that indicate ephemeral flow.
LRL-2020-1092, Ditch 4	590 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The ditch feature is two to three feet wide with a silt substrate. The ditch only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the January 18 and 19, 2021 field assessment. The ditch was constructed in upland areas as evident by the adjacent spoil piles and landscape position. Additionally, the ditch was observed to have silt substrate and the stream has a morphological, hydrological, and biological characteristics that indicate ephemeral flow.
LRL-2020-1092, Ditch 5	510 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The ditch feature is two to three feet wide with a silt substrate. The ditch only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the January 18 and 19, 2021 field assessment. The ditch was constructed in upland areas as evident by the adjacent spoil piles and landscape position. Additionally, the ditch was observed to have silt substrate and the stream has a morphological, hydrological, and biological characteristics that indicate ephemeral flow.

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LRL-2020-1092, Ditch 6	167 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The ditch feature is one to two feet wide with a silt substrate. The ditch only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the January 18 and 19, 2021 field assessment. The ditch was constructed in upland areas as evident by the adjacent spoil piles and landscape position. Additionally, the ditch was observed to have silt substrate and the stream has a morphological, hydrological, and biological characteristics that indicate ephemeral flow.
LRL-2020-1092, Ditch 7	165 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The ditch feature is one to two feet wide with a silt substrate. The ditch only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the January 18 and 19, 2021 field assessment. The ditch was constructed in upland areas as evident by the adjacent spoil piles and landscape position. Additionally, the ditch was observed to have silt substrate and the stream has a morphological, hydrological, and biological characteristics that indicate ephemeral flow.
LRL-2020-1092, Ditch 8	1105 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The ditch feature is one to three feet wide with a silt substrate. The ditch only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the January 18 and 19, 2021 field assessment. The ditch was constructed in upland areas as evident by the adjacent spoil piles and landscape position. Additionally, the ditch was observed to have silt substrate and the stream has a morphological, hydrological, and biological characteristics that indicate ephemeral flow.
LRL-2020-1092, Ditch 9	189 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The ditch feature is one to two feet wide with a silt substrate. The ditch only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the January 18 and 19, 2021 field assessment. The ditch was constructed in upland areas as evident by the adjacent spoil piles and landscape position. Additionally, the ditch was observed to have silt substrate and the stream has a morphological, hydrological, and biological characteristics that indicate ephemeral flow.
LRL-2020-1092, Ditch 10	185 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The ditch feature is one to three feet wide with a silt substrate. The ditch only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the January 18 and 19, 2021 field assessment. The ditches was constructed in upland areas as evident by the adjacent spoil piles and landscape position. Additionally, the ditch was observed to have silt substrate and the stream has a morphological, hydrological, and biological characteristics that indicate ephemeral flow.
LRL-2020-1092, Ditch 11	506 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a	The ditch feature is one to three feet wide with a silt substrate. The ditch only contains surface water

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		ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	flowing or pooling in direct response to precipitation and had no flow in the channel during the January 18 and 19, 2021 field assessment. The ditch was constructed in upland areas as evident by the adjacent spoil piles and landscape position. Additionally, the ditch was observed to have silt substrate and the stream has a morphological, hydrological, and biological characteristics that indicate ephemeral flow.
LRL-2020-1092, Ditch 12	51 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The ditch feature is one to two feet wide with a silt substrate. The ditch only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the January 18 and 19, 2021 field assessment. The ditches was constructed in upland areas as evident by the adjacent spoil piles and landscape position. Additionally, the ditch was observed to have silt substrate and the stream has a morphological, hydrological, and biological characteristics that indicate ephemeral flow.
LRL-2020-1092, Ditch 13	33 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The ditch feature is one to two feet wide with a silt substrate. The ditch only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the January 18 and 19, 2021 field assessment. The ditch was constructed in upland areas as evident by the adjacent spoil piles and landscape position. Additionally, the ditch was observed to have silt substrate and the stream has a morphological, hydrological, and biological characteristics that indicate ephemeral flow.
LRL-2020-1092, Ditch 14	37 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The ditch feature is one to two feet wide with a silt substrate. The ditch only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the January 18 and 19, 2021 field assessment. The ditch was constructed in upland areas as evident by the adjacent spoil piles and landscape position. Additionally, the ditch was observed to have silt substrate and the stream has a morphological, hydrological, and biological characteristics that indicate ephemeral flow.

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.

 x Information submitted by, or on behalf of, the applicant/consultant: *Request for Jurisdictional Determination Minor Lane Property dated February 8, 2021 prepared by RES Kentucky, LLC*
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).*

 x Photographs: *(aerial and other) Photographs dated 11/17/2020, 1/18-19/2021 included with JD Request, Google Earth aerial dated (10/21/2018, 2/25/2018, 2/18/2016, 11/6/2013,*

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12/31/2001, 2/26/1997, 3/28/1993)

- ___ Corps Site visit(s) conducted on: *Date(s)*.
- ___ Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s)*.
- x Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- x 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*
- x 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*
- x USGS topographic maps: *24K Brooks and Louisville East, 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 January 19, 2021 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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