



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): 25-JAN-2021

ORM Number: LRL-2020-01001

Associated JDs: N/A

Review Area Location¹:

State/Territory: KY City: Ludlow County/Parish/Borough: Kenton County

Center Coordinates of Review Area: Latitude 39.0942 Longitude -84.5423

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
N/A	N/A	N/A	N/A

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

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.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
NJC-1	100 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NJC-1 is a manmade channel lacking ordinary high water marks (OHWMs) originating at a residential development and directing runoff to Stream-1.
NJC-2	200 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NJC-2 is a drainage lacking OHWMs located along an existing railroad.
NJC-3	100 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NJC-3 is an erosional gully lacking OHWMs
NJC-4	200 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NJC-4 is an erosional gully/swale lacking OHWMs.
NJC-5	300 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	NJC-5 is an erosional gully lacking OHWMs.
Stream-1	569 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-1 is an ephemeral stream which receives drainage from an upslope residential development. Stream-1 has a drainage area of approximately ten acres.
Stream-2	854 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-2 is an ephemeral stream. Pooling was observed during the site investigation by the agent. Rain events prior to the site investigation indicate a flow regime influenced by precipitation. Stream-2 had a drainage area of approximately ten acres.
Stream-3	328 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-3 is an ephemeral stream with a drainage area of approximately two acres.
Stream-4	57 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-4 is an ephemeral stream with a drainage area of approximately two acres.
Stream-5	88 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-5 is an ephemeral stream with a drainage area of less than one acre,
Stream-6	48 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-6 is an ephemeral stream with a drainage area of approximately two acres.
Wetland-1	0.015 acres	(b)(1) Non-adjacent wetland	Wetland-1 was a non-adjacent wetland with no connection to jurisdictional waters of the U.S.

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 Approved Jurisdictional Determination: Norfolk-Southern Site. Submitted by S&ME, Inc. Dated:*

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November 18, 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: *(aerial and other) Google Earth, 2021; Maps submitted by applicant.*
- 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: *Title(s) and/or date(s)*.
- USFWS NWI maps: *Title(s) and/or date(s)*.
- USGS topographic maps: *1:24,000: Covington, 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	Archived Precipitation Data: https://www.weather.gov/iln/lcd_archive
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** The site was investigated on three separate dates by the Agent (S&ME, Inc.). Stream-1, Stream-3, NJC-1, and NJ-2 were assessed on September 30, 2020. Stream-4 and NJC-4 were assessed on October 1, 2020. Stream-2, Stream-5, Stream-6, NJC-3, and NJC-5 were assessed on October 7, 2020. The PDSI Index at the project location indicates “Severe Wetness” on September 30, 2020 and “Extreme Wetness” on the remaining assessment dates. The Web WIMP H2O Balance indicates the September 30, 2020 assessment was conducted during a dry season and the October assessments were conducted during a wet season. The Antecedent Precipitation Tool determined that during the 30 days prior to the dates of the site inspections by the applicant dry conditions existed at the project site. The Northern Kentucky area received 0.24 inches of precipitation 2 days prior to the September 30, 2020 and approximately 0.1 inch of precipitation in the week prior to the October 7, 2020 site assessment.
- C. Additional comments to support AJD:** N/A or provide additional discussion as appropriate.

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