



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): September 14, 2020

ORM Number: LRL-2020-00304

Associated JDs: N/A

Review Area Location¹:

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

Center Coordinates of Review Area: Latitude 38.129513 Longitude -85.589862

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
- 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
Cedar Creek	220 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Cedar creek is a perennial tributary that flows south under reaching Floyds Fork in Bullitt County, KY. Floyds Fork continues south till flowing directly into Salt River.
Intermittent Stream 1	100 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Intermittent tributary originates 100 feet and flows directly into a named (Cedar Creek) (a)(2) perennial 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 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.

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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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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	135 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Based on submitted documentation and aerial imagery, ephemeral tributary 1 exits what appears to be a man-made open water resource. The primary source of hydrology appears to be surface flow and flooding of the adjacent open water resource. Hydrology is dispersed into the landscape without establishing any hydrological connection to downstream waters.
EPH 2	165 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Based on submitted photos the ephemeral tributary appears to convey surface flow only during precipitation events. Based on submitted documentation, the flow concentrates as it moves down the landscape taking on characteristics associated with intermittent (a)(2) waters downstream. The upper ephemeral tributary drains as surface flow decreases indicating no additional hydrological input.
EPH 3	130 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Based on submitted photos the ephemeral tributary appears to convey surface flow only during precipitation events. Based on submitted documentation, the flow concentrates as it moves down the landscape taking on characteristics associated with intermittent (a)(2) waters downstream. The upper ephemeral tributary drains as surface flow decreases indicating no additional hydrological input.
EPH 4	290 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral 4 does not establish a discernable hydrological connection to downstream waters.
Open Water	0.354 acres	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year	The identified open water aquatic resource does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year.

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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 8000 & 8006 Cedar Creek Road Jefferson County, Kentucky Redwing Project.: 20-033. March 31, 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 Pro (2020). Submitted AJD request by applicant (March 31, 2020). Additional site visit photos by applicant (August 7, 2020).*

Corps Site visit(s) conducted on: *Date(s).*

Previous Jurisdictional Determinations (AJDs or PJDs): *N/A*

Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*

USDA NRCS Soil Survey: *Aerial - 60cm color orthoimage of the Commonwealth of Kentucky (NAIP-FSA) from kygissserver.ky.gov ArcGIS services (2016); Soil Survey Geographic (SSURGO) database for Jefferson County, Kentucky (2008).*

USFWS NWI maps: *https://www.fws.gov/wetlands/Data/Mapper.html.*

USGS topographic maps: *1:24K Quad Name - Jeffersontown*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	<i>1:24K Quad Name - Jeffersontown.</i>
USDA Sources	<i>Aerial - 60cm color orthoimage of the Commonwealth of Kentucky (NAIP-FSA) from kygissserver.ky.gov ArcGIS services (2016); Soil Survey Geographic (SSURGO) database for Jefferson County, Kentucky (2008).</i>
NOAA Sources	<i>N/A.</i>
USACE Sources	<i>N/A.</i>
State/Local/Tribal Sources	<i>N/A.</i>
Other Sources	https://www.wunderground.com/history/weekly/us/ky/louisville/KSDF/date/2020-3-2

B. Typical year assessment(s): Based on submitted documentation, a climate history was conducted utilizing photos provided by the requestor, the ATP tool, and historic precipitation amounts for the area of the JD request. Photos taken on March 2, 2020 showed the presence of hydrology in the tributaries identified as ephemeral. Historical precipitation data showed 0.20 inches of precipitation fell on that day indicating the presence of water in ephemeral tributaries would not be unusual given the function of ephemeral tributaries in the landscape. APT results produced normal conditions during that time of year. Additional photos were submitted August 7, 2020. The photos showed no discernable presence of hydrology in tributaries identified as ephemeral while hydrology was noted in tributaries identified as intermittent. Historical data showed no precipitation in a 3-day period while the ATP results showed wetter than normal conditions. The lack of discernable hydrology in tributaries identified as ephemeral

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despite the wetter than normal conditions further support the non-jurisdictional status of the aforementioned aquatic resources.

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

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