



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): October 1, 2020

ORM Number: LRL-2020-715-sea

Associated JDs: N/A Review Area Location<sup>1</sup>:

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

Center Coordinates of Review Area: Latitude 38.157441 Longitude -85.619782

**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
Intermittent Stream 1	660 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Intermittent Stream 1 ranges from five to eight feet wide with one to six foot bank heights and substrate consisting of silt, gravel, cobble, and bedrock. During the assessment, there was flowing water and small pools. Intermittent Stream 1 flows into Perennial Stream 1, an unnamed tributary (UT) of Fern Creek, which flows into Northern Ditch, to Southern Ditch, to Pond Creek, to the Salt River (a section 10 water), and to the Ohio River, a Traditional Navigable Water (TNW).
Perennial Stream 1	320 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a	Perennial Stream 1 ranges from eight to ten feet wide with one to three foot bank heights and substrate consisting of silt, gravel, cobble, boulders, and bedrock.

<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 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.

<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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		typical year	During the field assessment, there was flowing water and pools. Perennial Stream 1, an UT of Fern Creek, flows into Northern Ditch, to Southern Ditch, to Pond Creek, to Salt River (a section 10 water), and to the Ohio River, a TNW.
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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))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Ephemeral Stream 1	270 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral Stream 1 only contains surface water flowing or pooling in direct response to precipitation. Ephemeral Stream 1 is a (b)(3) water and is therefore excluded from the rule

**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 for 6106 South Watterson Trail dated July 20, 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: *kygisserver.ky.gov*, ArcGIS services (2018), and site photographs taken July 1, 2020.

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, Jefferson County, Kentucky (2008).

USFWS NWI maps: *Title(s) and/or date(s)*.

USGS topographic maps: 1:24,000 – Jeffersontown, Kentucky Quad

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.

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USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Weather Underground Historic Precipitation Data (WUHPD)

- B. Typical year assessment(s):** The Antecedent Precipitation Tool (APT) was utilized for the applicant stream assessment date of July 1, 2020. On July 1, 2020 the data shows that photos were taken during the dry season under wetter than normal conditions.
- C. Additional comments to support AJD:** WUHPD was reviewed for July 1, 2020 to see the precipitation totals for the days leading up to the assessment date. On July 1, 2020, the Louisville International Airport Station, located approximately 6.8 miles away from the review area, recorded 2.56 inches of rain in the 5 days prior to the assessment date and 0.99 inches of rain in the two days prior to the assessment date. Rainfall in the days prior to the site visit indicates that the presence of water in ephemeral tributaries would not be unusual given the function of ephemeral tributaries in the landscape.

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