



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): 15-DEC-2020

ORM Number: LRL-2020-00836

Associated JDs: N/A

Review Area Location¹:

State/Territory: KY City: Union County/Parish/Borough: Boone County

Center Coordinates of Review Area: Latitude 38.95763 Longitude -84.696783

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
Stream 1	854 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 1 is an (a)(2) water with an intermittent flow regime and originates at Open Water 2.
Stream 5	547 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 5 is an (a)(2) water with an intermittent flow regime and originates at Open Water 3.

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
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Open Water 2	1.69 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Open Water 2 is an (a)(3) water. Open Water 2 is an impounded stream and contributes flow directly to a (a)(2) water.
Open Water 3	1.31 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Open Water 3 is an (a)(3) water. Open Water 3 is an impounded stream and contributes flow directly to a (a)(2) water.

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland B	0.23 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland B is an (a)(4) water with a surface connection to an (a)(2) water.
Wetland C	0.1 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland C is an (a)(4) water with a surface connection to an (a)(3) water.
Wetland D	0.2 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland D is an (a)(4) water with a surface connection to an (a)(3) water.
Wetland F	0.05 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland F is an (a)(4) water with a surface connection to an (a)(2) water.
Wetland H	0.19 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland H is an (a)(4) water with a surface connection to an (a)(3) water.
Wetland I	0.47 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland H is an (a)(4) water with a surface connection to an (a)(3) water.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Open Water 1	0.35 acres	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) sub-categories	Open Water 1 is not a (a)(1-4) water and does not exhibit a direct surface connection to a (a)(1-4) water. Open Water 1 contributes flow to Swale 1.
Stream 10	169 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 10 is not an (a)(1-4) water. Stream 10 did not exhibit flow at the time of the delineation (August 25, 2020). The stream was determined to be ephemeral based on the absence of an identified ground water source, the small watershed size, and the absence of sediment sorting in the channel.
Stream 11	239 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 11 is not an (a)(1-4) water. Stream 11 did not exhibit flow at the time of the delineation (August 25, 2020). The stream was determined to be ephemeral based on the absence of an identified ground water source, the small watershed size, and the absence of sediment sorting in the channel.
Stream 12	178 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 12 is not an (a)(1-4) water. Stream 12 did not exhibit flow at the time of the delineation (August 25, 2020). The stream was determined to be ephemeral based on the absence of an identified ground water source, the small watershed size, and the absence of

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			sediment sorting in the channel.
Stream 2	68 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 2 is not an (a)(1-4) water. Stream 2 did not exhibit flow at the time of the delineation (August 25, 2020). The stream was determined to be ephemeral based on the absence of an identified ground water source, the small watershed size, and the absence of sediment sorting in the channel.
Stream 3	361 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 3 is not an (a)(1-4) water. Stream 3 did not exhibit flow at the time of the delineation (August 25, 2020). The stream was determined to be ephemeral based on the absence of an identified ground water source, the small watershed size, and the absence of sediment sorting in the channel.
Stream 4	349 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 4 is not an (a)(1-4) water. Stream 4 did not exhibit flow at the time of the delineation (August 25, 2020). The stream was determined to be ephemeral based on the absence of an identified ground water source, the absence of sediment sorting in the channel, and vegetation present within the channel.
Stream 6	150 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 6 is not an (a)(1-4) water. Stream 6 did not exhibit flow at the time of the delineation (August 25, 2020). The stream was determined to be ephemeral based on the absence of an identified ground water source, the small watershed size, and the absence of sediment sorting in the channel.
Stream 7	202 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 7 is not an (a)(1-4) water. Stream 7 did not exhibit flow at the time of the delineation (August 25, 2020). The stream was determined to be ephemeral based on the absence of an identified ground water source, the small watershed size, the absence of sediment sorting in the channel.
Stream 8	303 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 8 is not an (a)(1-4) water. Stream 8 did not exhibit flow at the time of the delineation (August 25, 2020). The stream was determined to be ephemeral based on the absence of an identified ground water source, the small watershed size, and the absence of sediment sorting in the channel.
Stream 9	59 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 9 is not an (a)(1-4) water. Stream 9 did not exhibit flow at the time of the delineation (August 25, 2020). The stream was determined to be ephemeral based on the absence of an identified ground water source, the small watershed size, and the absence of sediment sorting in the channel.
Swale 1	82 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 1 is not a (a)(1-4) water. This swale lacks OHWMs and a defined bed and banks.
Swale 10	53 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 10 is not a (a)(1-4) water. This swale lacks OHWMs and a defined bed and banks.
Swale 11	127 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 11 is not a (a)(1-4) water. This swale lacks OHWMs and a defined bed and banks.

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Swale 12	117 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 12 is not a (a)(1-4) water. This swale lacks OHWMs and a defined bed and banks.
Swale 13	273 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 13 is not a (a)(1-4) water. This swale lacks OHWMs and a defined bed and banks.
Swale 2	74 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 2 is not a (a)(1-4) water. This swale lacks OHWMs and a defined bed and banks.
Swale 3	42 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 3 is not a (a)(1-4) water. This swale lacks OHWMs and a defined bed and banks.
Swale 4	208 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 4 is not a (a)(1-4) water. This swale lacks OHWMs and a defined bed and banks.
Swale 5	56 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 5 is not a (a)(1-4) water. This swale lacks OHWMs and a defined bed and banks.
Swale 6	201 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 6 is not a (a)(1-4) water. This swale lacks OHWMs and a defined bed and banks.
Swale 7	103 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 7 is not a (a)(1-4) water. This swale lacks OHWMs and a defined bed and banks.
Swale 8	186 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 8 is not a (a)(1-4) water. This swale lacks OHWMs and a defined bed and banks.
Swale 9	80 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 9 is not a (a)(1-4) water. This swale lacks OHWMs and a defined bed and banks.
Wetland A	0.04 acres	(b)(1) Non-adjacent wetland	Wetland A is not a (a)(1-4) water and lacks a surface connection to downstream waters.
Wetland E	0.03 acres	(b)(1) Non-adjacent wetland	Wetland E is not a (a)(1-4) water. Wetland E drains into a swale feature which directs flow to an ephemeral stream. The wetland is not adjacent to a jurisdictional water.
Wetland G	0.1 acres	(b)(1) Non-adjacent wetland	Wetland G is not a (a)(1-4) water. Wetland G drains into a swale feature which directs flow to an intermittent stream. The wetland is not adjacent to a jurisdictional water.
Wetland J	0.13 acres	(b)(1) Non-adjacent wetland	Wetland J is not a (a)(1-4) water. Wetland J drains into an ephemeral stream. The wetland is not adjacent to a jurisdictional water.

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: *Jurisdictional Determination Request: Kahmann Farms, submitted by Civil & Environmental Consultants,*

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Inc., dated: September 25, 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, 2020; Photos and maps provided by the 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 Union, 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	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** The PDSI Index indicates “Severe Wetness” at the project location. The Web WIMP H2O Balance indicates the determination was conducted during a dry season. The Antecedent Precipitation Tool determined that during the 30 days prior to the date of the site visit (August 25, 2020) dry conditions existed at the project site. Conditions at the site for 90 days prior to the site visit were wetter than normal.
- C. Additional comments to support AJD:** *N/A* or provide additional discussion as appropriate.

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