



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): December 21, 2020

ORM Number: LRL-2020-840-sea

Associated JDs: N/A

Review Area Location¹:

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

Center Coordinates of Review Area: Latitude 38.100553 Longitude -85.828846

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
INT 1	143 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	INT 1 ranges from two to four feet wide with bank heights ranging from three to six inches with a silt substrate. Flowing water was observed during the December 13, 2017 site visit. INT 1 flows through WET 4 to INT 2 which flows into Pond Creek to the Salt River, a Section 10 water, to the Ohio River, a traditional navigable water (TNW).
INT 2	1048 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	INT 2 ranges from two to eight feet wide with bank heights ranging from two to five feet with a silt, gravel, and cobble bed substrate. Flowing water was observed during the December 13, 2017 site visit but was dry during the September 14, 2020 site visit. INT 2 flows

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 or 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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

			into Pond Creek which flows to the Salt River, a Section 10 water, to the Ohio River, a TNW.
--	--	--	--

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
WET 2	0.542 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	WET 2 abuts INT 1, an (a)(2) water, which flows through WET 4 to INT 2 to Pond Creek. Pond Creek flows to the Salt River, a Section 10 Water, then to the Ohio River, a TNW.
WET 4	0.381 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	WET 4 abuts INT 2, an (a)(2) water, which flows into Pond Creek. Pond Creek flows to the Salt River, a Section 10 Water, then to the Ohio River, a TNW.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
EPH 1	638 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	EPH 1 only contains surface water flowing or pooling in direct response to precipitation. EPH 1 is a (b)(3) water and is therefore excluded from the rule.
WET 1	4.011 acres	(b)(1) Non-adjacent wetland	WET 1 is physically isolated in the landscape and is not regularly inundated by or connected to an (a)(1) to (a)(3) water.
WET 3	0.045 acres	(b)(1) Non-adjacent wetland	WET 3 is physically isolated in the landscape and is not regularly inundated by or connected to an (a)(1) to (a)(3) water.
WET 5	0.977 acres	(b)(1) Non-adjacent wetland	WET 5 is physically isolated in the landscape and is not regularly inundated by or connected to an (a)(1) to (a)(3) 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.

- Information submitted by, or on behalf of, the applicant/consultant: Request for Jurisdictional Determination Axis – Stonestreet Road Property dated October 2, 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: World Imagery – ESRI and the GIS User Community and Site Photos taken September 14, 2020.
- Corps Site visit(s) conducted on: *Date(s)*.
- Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s)*.

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 or 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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: SSURGO, Jefferson Co, KY (2008)
- USFWS NWI maps: *Title(s) and/or date(s).*
- USGS topographic maps: 1:24,000: Valley Station, Kentucky

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS 03302030 Pond Creek at Pendleton Road Near Louisville, KY (2008-2020) and USGS 03302000 Pond Creek Near Louisville, KY (2008-2020)
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	FEMA National Flood Hazard Layer (2015) – ESRI and the GIS User Community

B. Typical year assessment(s): N/A

C. Additional comments to support AJD: All of the listed waters on-site are within the 100 year floodplain of Pond Creek. However, after reviewing stream gage data from 2008-2020, the average maximum stream level of Pond Creek was found to be 339'. WET 1, WET 3, and WET 5 are located at approximately 443'. These wetlands are not likely to be inundated by Pond Creek in a typical year.

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 or 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.