



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): January 14, 2021

ORM Number: LRL-2020-00874

Associated JDs: LRL-2019-1125

Review Area Location<sup>1</sup>:

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

Center Coordinates of Review Area: Latitude 38.295449 Longitude -85.463554

**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   |
|------------------|-------------|--|--|
| Floyds Fork NWPR | 4020 feet   | (a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year    | Contributes water to an (a)(1) indirectly. Floyds Fork is located along the southeastern and eastern project boundary and is approximately 90 feet in width with 10 to 15-foot banks and silt, gravel, cobble, boulder, and bedrock substrate. |
| Int 1 NWPR       | 575 feet    | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | The intermittent tributary contributes surface water flow continuously during certain times of the year and more than in direct response to precipitation to an (a)(1) water in a typical year.  |
| Int 10 NWPR      | 825 feet    | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1)                         | The intermittent tributary contributes surface water flow continuously during certain times of the year and more than in direct response to precipitation to an (a)(1)   |

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

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<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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|                  |           |  |  |
|------------------|-----------|--|--|
|                  |           | water in a typical year  | water in a typical year.   |
| Int 11 NWPR      | 25 feet   | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | The intermittent tributary contributes surface water flow continuously during certain times of the year and more than in direct response to precipitation to an (a)(1) water in a typical year.  |
| Int 12 NWPR      | 235 feet  | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | The intermittent tributary contributes surface water flow continuously during certain times of the year and more than in direct response to precipitation to an (a)(1) water in a typical year.  |
| Int 13 NWPR      | 415 feet  | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | The intermittent tributary contributes surface water flow continuously during certain times of the year and more than in direct response to precipitation to an (a)(1) water in a typical year.  |
| Int 2 NWPR       | 130 feet  | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | The intermittent tributary contributes surface water flow continuously during certain times of the year and more than in direct response to precipitation to an (a)(1) water in a typical year.  |
| Int 3 NWPR       | 85 feet   | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | The intermittent tributary contributes surface water flow continuously during certain times of the year and more than in direct response to precipitation to an (a)(1) water in a typical year.  |
| Int 4 NWPR       | 400 feet  | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | The intermittent tributary contributes surface water flow continuously during certain times of the year and more than in direct response to precipitation to an (a)(1) water in a typical year.  |
| Int 5 NWPR       | 240 feet  | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | The intermittent tributary contributes surface water flow continuously during certain times of the year and more than in direct response to precipitation to an (a)(1) water in a typical year.  |
| Int 6 NWPR       | 100 feet  | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | The intermittent tributary contributes surface water flow continuously during certain times of the year and more than in direct response to precipitation to an (a)(1) water in a typical year.  |
| Int 7 NWPR       | 50 feet   | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | The intermittent tributary contributes surface water flow continuously during certain times of the year and more than in direct response to precipitation to an (a)(1) water in a typical year.  |
| Int 8 NWPR       | 65 feet   | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | The intermittent tributary contributes surface water flow continuously during certain times of the year and more than in direct response to precipitation to an (a)(1) water in a typical year.  |
| Int 9 NWPR       | 210 feet  | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | The intermittent tributary contributes surface water flow continuously during certain times of the year and more than in direct response to precipitation to an (a)(1) water in a typical year.  |
| Perennial 1 NWPR | 2165 feet | (a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year    | Contributes water to an (a)(1) indirectly. Perennial Stream 1 originates at the confluence of three intermittent streams and flows south into Floyds Fork. Perennial Stream 1 ranges from eight to ten feet wide with two to ten foot bank heights and silt, gravel, cobble, boulder, and bedrock substrate. |

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<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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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  |
|----------------|-------------|--|---|
| Wetland 3 NWPR | 0.022 acres | (a)(4) Wetland abuts an (a)(1)-(a)(3) water                                    | Wetland 3 is an emergent seep wetland that is directly connected to Intermittent Stream 3.  |
| Wetland 4 NWPR | 0.037 acres | (a)(4) Wetland abuts an (a)(1)-(a)(3) water                                    | Wetland 4 is an emergent seep wetland that is directly connected to Intermittent Stream 10.   |
| Wetland 5 NWPR | 0.191 acres | (a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature | Wetland 5 is an emergent seep wetland that is directly connected to Intermittent Stream 3. Wetland 5 is connected via a sinkhole that drains the water underground and connects to Intermittent Stream 10 through an observed seep. |

**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   |
|----------------|----------------|--|---|
| Eph 1 NWPR     | 100 feet       | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 10 NWPR    | 65 feet        | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 11 NWPR    | 180 feet       | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 12 NWPR    | 85 feet        | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 13 NWPR    | 25 feet        | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 14 NWPR    | 75 feet        | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 15 NWPR    | 20 feet        | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 16 NWPR    | 90 feet        | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and                                      |

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|-------------|----------|--|---|
|             |          |  | is therefore excluded from the rule.  |
| Eph 17 NWPR | 335 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 18 NWPR | 70 feet  | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 19 NWPR | 50 feet  | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 2 NWPR  | 55 feet  | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 20 NWPR | 25 feet  | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 21 NWPR | 65 feet  | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 3 NWPR  | 80 feet  | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 4 NWPR  | 250 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 5 NWPR  | 415 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 6 NWPR  | 20 feet  | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 7 NWPR  | 210 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 8 NWPR  | 15 feet  | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |
| Eph 9 NWPR  | 80 feet  | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule. |

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|-------------------|-------------|-----------------------------|--|
|                   |             |                             | is therefore excluded from the rule.   |
| Wetland 1<br>NWPR | 0.074 acres | (b)(1) Non-adjacent wetland | Wetland 1 is a scrub-shrub wetland that lacks a direct connection to a jurisdictional tributary or water; therefore, not adjacent to jurisdictional tributary or water; Wet 1 is a (b)(1) water and is therefore excluded from the rule. |
| Wetland 2<br>NWPR | 0.025 acres | (b)(1) Non-adjacent wetland | Wetland 2 is an emergent wetland that lacks a direct connection to a jurisdictional tributary or water; therefore, not adjacent to jurisdictional tributary or water; Wet 2 is a (b)(1) 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: *PCN for NWP 29 submitted December 23, 2019 and Addendum submitted February 11, 2020 (LRL-2019-1125) for previous client. PCN for NWP 29 submitted November 2020 with revised Fig 3 water wetland map and Fig 4 SitePlan submitted January 5, 2021.*

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 GIS (2019) and site photographs March 13, 2019, November 10, 2020, and December 21, 2020.*

Corps Site visit(s) conducted on: *Date(s). January 27, 2020 for western portion and December 21, 2020 for eastern portion of site.*

Previous Jurisdictional Determinations (AJDs or PJDs): *LRL-2019-1125*

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

USDA NRCS Soil Survey: *SSURGO, Oldham Co, KY (2006).*

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

USGS topographic maps: *1:24K Crestwood, Kentucky*

**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.  |

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- B. Typical year assessment(s):** Typical year assessment was conducted utilizing desktop tools, the submitted preconstruction notification, and a site visit conducted by Corps personnel on January 27, 2020 and December 21, 2020 to verify the recommended aquatic resource determinations by Redwing Ecological Services, Inc., (now Resource Environmental Solutions, LLC.). Based on the aforementioned supporting documentation, the conditions as described in *Part II: Findings* under *Section C Clean Water Act Section 404 and Section D Excluded Waters or Features* were determined to be typical.
- C. Additional comments to support AJD:** N/A

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