



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): 20-OCT-2020

ORM Number: LRL-2020-00892-JLB

Associated JDs: LRL-2007-594

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

State/Territory: KY City: Virgie County/Parish/Borough: Pike County

Center Coordinates of Review Area: Latitude 37.363624 Longitude -82.600002

**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
U.T. Little Fork #1 Int	1100 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Tributary contributes surface and ground water indirectly to a Section 10 water in a typical year by flowing into Robinson Creek of Shelby Creek. Shelby Creek empties into the Levisa Fork, 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):

<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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(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
U.T. Little Fork #1 Ephem	1220 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
U.T. Little Fork #2 Ephem	1275 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
U.T. Little Robinson Creek #1 Ephem	1200 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
U.T. Robinson Creek #1 Ephem	1650 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.

**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: *Jurisdictional Determination Request submitted on 8-28-2020 and 9-25-2020*  
This information is sufficient for purposes of this AJD.  
Rationale: *N/A*
- Data sheets prepared by the Corps: *NWPR AJD Form prepared 10-20-2020*
- Photographs: *Aerial: Google Earth Imagery 4-21-2019*
- Corps Site visit(s) conducted on: *Date(s): 7-22-2020*
- Previous Jurisdictional Determinations (AJDs or PJDs): *LRL-2007-594*
- 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(K) Dorton, Kentucky*

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**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 corresponding APT report for this geographic region during a 90 day time range was indicative of normal conditions. The in-field observations made were reflective of the definition of an ephemeral channel and exhibited no flow or pooling of water immediately following a precipitation event.
- C. Additional comments to support AJD:** The watersheds have been previously impacted by gas exploration, mining, spoil disposal, logging, illegal dumping, and residential impacts.

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

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