



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): 18-DEC-2020

ORM Number: LRL-2020-00919

Associated JDs: N/A

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

State/Territory: KY City: Crestview Hills County/Parish/Borough: Kenton County

Center Coordinates of Review Area: Latitude 39.02038 Longitude -84.567952

**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
Stream-2	164 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream-2 is a (a)(2) water with an intermittent flow regime.
Stream-3	1510 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream-3 is a (a)(2) water with an intermittent flow regime.

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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<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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N/A	N/A	N/A	N/A
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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
Constructed Swale	231 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The feature is not an (a)(1-4) water and does not exhibit a bed, bank, or evidence of an ordinary high water mark. The feature is a constructed swale lined with rip rap.
Wetland-A	0.01 acres	(b)(1) Non-adjacent wetland	The feature is not an (a)(1-4) water. Wetland-A contributes flow to downstream waters via a non-jurisdictional constructed swale.
Wetland-B	0.06 acres	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff	The feature is not an (a)(1-4) water. Wetland-B is a wetland which has developed within a stormwater basin. Wetland-B receives intermittent flow from the surrounding development areas. However, a review of historic imagery and the absence of intermittent flow from the upstream reach, the basin was determined to have been constructed in an ephemeral or non-jurisdictional stream channel and would therefore qualify for the (b)(10) exclusion.

**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 Waters Delineation Report: Thomas More Site. Submitted by Ramboll: O'Brien & Gere Engineers, Inc. Dated October 23, 2020*

This information (is) sufficient for purposes of this AJD.

Rationale: *N/A or describe rationale for insufficiency (including partial insufficiency).*

Data sheets prepared by the Corps: *Title(s) and/or date(s).*

Photographs: *(aerial and other) Google Earth, 2020; Maps submitted by applicant/agent.*

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 Covington, KY.*

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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 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 inspection by the applicant (September 30, 2020) wet conditions existed at the project site. However, for the previous 90 days, the site had averaged drier than normal conditions.
- C. Additional comments to support AJD:** N/A or provide additional discussion as appropriate.

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