



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 4, 2021

ORM Number: LRL-2020-00962

Associated JDs: N/A

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

State/Territory: KY City: County/Parish/Borough: Bourbon County, Robertson County, and Mason County

Center Coordinates of Review Area: Latitude 38.436193 Longitude -84.011589

**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
Licking River	226 feet	RHA Non-tidal water is on the district's Section 10 waters list	RHA Non-tidal water is on the district's Section 10 waters list

**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
East Branch Sugar Creek (S-13a)	94 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.
East Branch Sugar Creek (S-13b)	307 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.
East Branch	92 feet	(a)(2) Intermittent tributary	The intermittent tributary contributes surface water flow

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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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Sugar Creek (S-13c)		contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	continuously during certain times of the year and more than in direct response to precipitation to an (a)(1) water in a typical year.
Indian Run (S-14a)	30 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The perennial tributary contributes surface flow continuously to an (a)(1) water in a typical year.
Indian Run (S-14b)	27 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The perennial tributary contributes surface flow continuously to an (a)(1) water in a typical year.
Layson's Branch (S-4)	40 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.
Unt Baker Creek (S-17)	26 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.
Unt East Branch Sugar Creek (S-12)	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.
Unt Hinkston Creek (S-2)	5 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The perennial tributary contributes surface flow continuously to an (a)(1) water in a typical year.
Unt Wilburn Run (S-8)	30 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.
Wilburn Run (S-6)	27 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.

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
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
Unt Baker Creek (S-18)	35 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully,	The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation.

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<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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		rill, or pool	The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule.
Unt Beaver Creek (S-10)	3 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.
Unt Beaver Creek (S-11)	26 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.
Unt Beaver Creek (S-9)	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.
Unt Hinkston Creek (S-1)	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.
Unt Hinkston Creek (S-3)	4 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.
Unt Indian Run (S-15)	45 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.
Unt Johnson Creek (S-16)	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.
Unt Layson's Branch (S-5)	105 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.
Unt Licking River (S-19a)	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 is therefore excluded from the rule.
Unt Licking River (S-19b)	28 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.
Unt Licking River (S-19c)	130 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.
Unt Licking River (S-20)	40 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.
Unt North Fork Licking River (S-	25 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully,	The ephemeral channel only contains surface water flowing or pooling in direct response to precipitation.

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21)		rill, or pool	The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule.
Unt Wilburn Run (S-7)	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.

**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: *Pre-Construction Notification, Millersburg to Murphysville 69-kV transmission Line Rebuild Project, Louisville Gas and Electric Company and Kentucky Utilities Company, Burns & McDonnell Project No: 124351 part 1 and 2 dated November 9, 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 maps with terrain overly and submitted pre-construction notification (appendix A figures and appendix C photo Log) submitted by Burns & McDonnell.*

Corps Site visit(s) conducted on: *N/A*

Previous Jurisdictional Determinations (AJDs or PJDs): *N/A*

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

USDA NRCS Soil Survey: [www.websoilsurvey.nrcs.usda.gov](http://www.websoilsurvey.nrcs.usda.gov), 2020.

USFWS NWI maps: [www.fws.gov/nwi](http://www.fws.gov/nwi), 2020.

USGS topographic maps: *7.5-minute Millersburg and Cynthiana quadrangles.*

**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):** Typical year assessment was conducted utilizing desktop tools, the submitted ENG FORM 6082 JUN 2019, and the preconstruction notification. 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.

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**C. Additional comments to support AJD: N/A**

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