



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): May 18, 2021

ORM Number: LRL-2021-00328

Associated JDs: Previous PJD issued *August 30, 2018* under USACE ID# LRL-2004-1315 for waters identified as “Wetland A – C” and an AJD issued *August 30, 2018* under the same USACE ID# for waters identified as “Wetland D”.

Review Area Location¹:

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

Center Coordinates of Review Area: Latitude 38.086087 Longitude -85.658266

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 |
|-------------|-------------|-----------------|------------------------------------|
| N/A | N/A | N/A | N/A |

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 |

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.



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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))⁴:

| Exclusion Name | Exclusion Size | Exclusion ⁵ | Rationale for Exclusion Determination |
|-------------------|----------------|-----------------------------|--|
| Wetland A NWPR | 0.158 acres | (b)(1) Non-adjacent wetland | Wetland A is situated in the southeastern quadrant of the property. It occupies a weakly defined series of shallow depressions. Hydrology appears to come principally from precipitation. The wetland is not adjacent to nor is inundated by an (a)(1)-(a)(3) water in a typical year. |
| Wetland B NWPR | 0.028 acres | (b)(1) Non-adjacent wetland | Wetland B is located along the eastern edge of the property and appears to be contained within a linear drainage swale. The wetland is not adjacent to nor is inundated by an (a)(1)-(a)(3) water in a typical year. |
| Wetland C NWPR | 0.102 acres | (b)(1) Non-adjacent wetland | Wetland C lies entirely within a cleared power line right-of-way that also contains an underground petroleum pipeline. The wetland is not adjacent to nor is inundated by an (a)(1)-(a)(3) water in a typical year. |
| Wetland D NWPR | 0.171 acres | (b)(1) Non-adjacent wetland | Based on the previous AJD (LRL-2004-1315) and submitted documentation, Wetland D is located in a closed depression. The area appears to have been created when adjacent residential development was constructed creating a depressional area between the finish grade of the subdivision and a driveway. This depressional area concentrates precipitation from the surrounding upland and has developed wetland characteristics. However, no surface connections were identified between Wetland D and any jurisdictional waters. |

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: *Previously issued jurisdictional determination dated August 30, 2018 under USACE ID# LRL-2004-1315, Aquatic Resources Survey dated May 21, 2018, and Request for a Jurisdictional Determination Form dated March 31, 2021.*

This information is sufficient for purposes of this AJD.

Rationale: *N/A*

Data sheets prepared by the Corps: *N/A*

Photographs: *Aerial and other; Google Earth Pro (2018) with NHD overlay and Photos submitted by agent in Appendix B of the Aquatic Resources Survey dated May 21, 2018.*

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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.



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- Corps Site visit(s) conducted on: *Date(s). June 15, 2018 in association with USACE ID# LRL-2004-1315.*
- Previous Jurisdictional Determinations (AJDs or PJDs): *Previous PJD issued August 30, 2018 under USACE ID# LRL-2004-1315 for waters identified as "Wetland A – C" and an AJD issued August 30, 2018 under the same USACE ID# for waters identified as "Wetland D".*
- Antecedent Precipitation Tool: *N/A*
- USDA NRCS Soil Survey: *N/A*
- USFWS NWI maps: *N/A*
- USGS topographic maps: *1:24K Quad Name - Brooks*

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, previous jurisdictional determinations, and the submitted request for jurisdictional determination with supporting documentation. Based on the aforementioned supporting documentation, the conditions as described in *Part II: Findings* under *Section D Excluded Waters or Features* were determined to be typical.
- C. Additional comments to support AJD:** Based on the aforementioned supporting documentation, aerial imagery, the previous jurisdictional determinations, and a meeting with the agent conducted via telephone on May 10, 2021 the identified waters are determined to be non-jurisdictional and therefore not "Waters of the United States". The identified wetlands appear to be a series of depressions in the landscape with a primary hydrological input from precipitation events and surface flow with no connection to jurisdictional waters. Based on supporting documentation and aerial imagery, the aquatic resources are in an area consisting of residential development on 3 sides. Surface flow resulting from precipitation events appears to be incorporated into the existing stormwater infrastructure of the surrounding developments.

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