



**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): 4/23/2021
 ORM Number: LRL-2021-265-JMG
 Associated JDs: N/A
 Review Area Location¹: State/Territory: KY City: Uniontown County/Parish/Borough: Union
 Center Coordinates of Review Area: Latitude 37.741549° Longitude -87.965775°

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.	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.	N/A.

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
I3-1	5125	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent tributary that contributes surface water flow directly to Sibley Creek, which reports to the Ohio River, an (a)(1) water.
I3-2	70	linear feet	(a)(2) Intermittent tributary contributes	Intermittent tributary that contributes surface water flow indirectly to Sibley Creek, which reports to the Ohio River, an (a)(1) water.

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 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.



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Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
		surface water flow directly or indirectly 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)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
E1-1	40 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E2-1	70 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E2-2	35 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-1	1415 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-2	290 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.

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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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
E3-3	50	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-4	790	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-5	1520	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-6	530	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-7	300	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-8	115	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-9	1290	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-10	185	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-11	785	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-12	235	linear feet	(b)(3) Ephemeral feature, including	Tributary that only flows in direct response to precipitation. Does not serve as a connection



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			an ephemeral stream, swale, gully, rill, or pool.	between and upstream and downstream channel.
E3-13	140	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-14	145	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-15	705	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-16	1195	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-17	1000	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-18	960	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream channel.
E3-19	340	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary that only flows in direct response to precipitation. Does not serve as a connection between and upstream and downstream 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: [Riverview Coal LLC DNR 913-9003 Amendment 6 jurisdictional determination report. February 2021](#)

This information is sufficient for purposes of this AJD.

Rationale: [Wetland and Stream report included with maps, data sheets, and photo log.](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)



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- Photographs: [Aerial and Other: Riverview Coal LLC DNR 913-9003 Amendment 6 jurisdictional determination report. February 2021](#)
- 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: [Title\(s\) and/or date\(s\)](#).

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): [N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.](#)

C. Additional comments to support AJD: [N/A or provide additional discussion as appropriate.](#)