



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): 06-JUL-2021

ORM Number: LRL-2021-00464-MAD

Associated JDs: N/A

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

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

Center Coordinates of Review Area: Latitude 38.2005 Longitude -85.853556

**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
LRL-2021-00464, Cane Run	3,000 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Cane Run is a mapped blue-line intermittent USGS stream that contribute flow to off-site Mill Creek Cutoff which connects to the Ohio River. Cane Run is channelized and entrenched and exhibited stagnant, pooled water at depths of one to four feet with no flowing water observed. During the Corps' site visit beaver activity was observed within the stream which resulted in pooling water. The stream exhibited a morphology typical of an intermittent stream in the region including continuous bed and bank and width and depth of ordinary high water mark.

<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.



U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

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
LRL-2021-00464, Ephemeral 1	57 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral Stream 1 forms a drainage channel between Wetland 1 to Wetland 2. The stream only contains surface water flowing or pooling in direct response to precipitation and had no flow/water in the channel during the field assessment or Corps site visit. The stream exhibited a morphology typical of ephemeral stream in the region.
LRL-2021-00464, Ephemeral 3	4 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral Stream 3 originates below a drainage swale in the southwest corner of the project boundary and flow off site into an intermittent stream. The stream only contains surface water flowing or pooling in direct response to precipitation and had no flow/water in the channel during the field assessment or Corps site visit. The stream exhibited a morphology typical of ephemeral stream in the region.
LRL-2021-00464, Wetland 1	0.287 acre	(b)(1) Non-adjacent wetland	Wetland 1 is located in the northern portion of the site and drains south to Ephemeral Stream 1, which connects to Wetland 2. Wetland 1 has no surface connection to downstream jurisdictional waters or receive flooding from any jurisdictional resources.
LRL-2021-00464, Wetland 2	0.392 acre	(b)(1) Non-adjacent wetland	Wetland 2 is located on the stream terrace above Cane Run, with an upland berm in between. Cane Run has been ditched and the banks are fully vegetated indicating no flooding of the stream occurs up onto the stream terrace which is approximately 20 feet higher than the surface water. Since Wetland 2 has no surface connection to downstream jurisdictional waters,
LRL-2021-00464, Wetland 3	0.017 acre	(b)(1) Non-adjacent wetland	Wetland 3 is located on the stream terrace above Cane Run, with an upland berm in between. Cane Run has been ditched and the banks are fully vegetated indicating no flooding of the stream occurs up onto the stream terrace which is approximately 20 feet higher than the surface water. Since Wetland 3 has no surface connection to downstream jurisdictional waters,
LRL-2021-00464, Wetland 4	0.076 acre	(b)(1) Non-adjacent wetland	Wetland 4 is located in a man-made ditched area west of Cane Run, with an upland berm in between. Cane Run has been ditched and the banks are fully vegetated indicating no flooding of the stream occurs

<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 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.

<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.



U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

			up onto the stream terrace which is approximately 20 feet higher than the surface water. Wetland 4 has no surface connection to downstream jurisdictional waters.
LRL-2021-00464, Wetland 5	0.134 acre	(b)(1) Non-adjacent wetland	Wetland 5 is located in a depression area and has no defined outlet or any surface connection to downstream waters. There is no indication the wetland receives flooding from any jurisdictional waters.
LRL-2021-00464, Wetland 6	0.196 acre	(b)(1) Non-adjacent wetland	Wetland 6 is located in a depression area and has no defined outlet or any surface connection to downstream waters. There is no indication the wetland receives flooding from any jurisdictional waters.
LRL-2021-00464, Wetland 7	0.949 acre	(b)(1) Non-adjacent wetland	Wetland 7 drains from the northern off-site wooded portion and continues south into a linear wetland in the on-site woods. Wetland 7 continues outside the project boundary and connects to Ephemeral Stream 2, a (b) (3) excluded water.
LRL-2021-00464, Wetland 8	0.675 acre	(b)(1) Non-adjacent wetland	Wetland 8 is located in the eastern portion of the site and drains south into man-made ditch that flows through the off-site cemetery. Wetland 8 was traced south until a terminus near the existing railroad with no connection downstream or other potential connection to jurisdictional waters.
LRL-2021-00464, Wetland 9	0.013 acre	(b)(1) Non-adjacent wetland	Wetland 9 is located on the stream terrace above Cane Run, with an upland berm in between. Cane Run has been ditched and the banks are fully vegetated indicating no flooding of the stream occurs up onto the stream terrace which is approximately 20 feet higher than the surface water. There is no indication the wetland receives flooding from any jurisdictional waters.
LRL-2021-00464, Wetland 10	0.045 acre	(b)(1) Non-adjacent wetland	Wetland 10 originates below a vegetated swale in the southern portion of the site and drains south into a defined concave drainage. Wetland 10 was traced south until a terminus near the existing railroad with no connection downstream or other potential connection to jurisdictional waters.
LRL-2021-00464, Ditch 1	36 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ditch 1 is a high gradient erosional gully lined with riprap that has formed on the steep bank between Cane Run and an existing road crossing. The feature did not exhibit a bed and bank and had a morphology of a gully.
LRL-2021-00464, Ditch 2	43 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ditch 2 is a high gradient erosional gully lined with riprap that has formed on the steep bank between Cane Run and an existing road crossing. The feature did not exhibit a bed and bank and had a morphology of a gully.

**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.

  x   Information submitted by, or on behalf of, the applicant/consultant: *Request for Jurisdictional*

<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 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.

<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.



U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

*Determination Camp Ground Road Poe Development dated May 21, 2021 prepared by RES Kentucky LLC and additional information received June 22 and 25, 2021.*

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:

Photographs: (*, aerial and other*) *Applicant photographs 4/20-22/2021. Corps photographs dated 6/22/2021. Google Earth aerials dated 11/5/2020, 2/25/2018, 7/26/2006, 3/7/1997, 12/30/1985. historicaerials.com/viewer aerials dated 1952, 1959, 1964, 1985*

Corps Site visit(s) conducted on: *6/22/2021*

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: *Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey. Available online at <http://websoilsurvey.sc.egov.usda.gov/>. Accessed 06/21/2021*

USFWS NWI maps: *USFWS NWI maps: National Wetlands Inventory website. U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. Available online at <http://www.fws.gov/wetlands/>. Accessed 06/21/2021*

USGS topographic maps: *1:24,000 – Louisville West, Kentucky Quadrangle.*

**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 Antecedent Precipitation Tool was utilized for the 6/22/2021 Corps site visit, and the applicant's site assessment dates from 4/20-22/2021. The data shows that the Corps' site visit was during normal conditions during the dry season, and the applicant's assessment was during normal conditions during the wet season. Both assessment dates were during typical year conditions.

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

<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 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.

<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.