



**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): 5/28/2021

ORM Number: LRN-2021-00179

Associated JDs: LRN-2021-00179 (PJD)

Review Area Location¹: State/Territory: TN City: Mufreesboro County/Parish/Borough: Rutherford

Center Coordinates of Review Area: Latitude 35.902035 Longitude -86.540332

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	

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	

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
PND-1	0.12	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	<p>PND-1 is an excluded artificial pond constructed entirely in uplands and is not jurisdictional under the Navigable Waters Protection Rule of the Clean Water Act due to the following:</p> <p>(a) During the Corps site visit on April 13, 2021, a berm was observed around the pond, and no tributaries or wetlands were observed flowing into the feature.</p> <p>(b) The NRCS Soil Survey shows the pond as “Water” surrounded entirely by Bradyville-Rock outcrop complex, 2-12 percent slopes. This soil type consists of well-drained soils and limestone outcrops on uplands.</p> <p>Based on evaluation of the information submitted on February 17, 2021 and a field review, PND-1 was determined to have been constructed entirely in uplands.</p>
WWC-1	679	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	<p>WWC-1 is an excluded water as an ephemeral feature and is not jurisdictional under the Navigable Waters Protection Rule of the Clean Water Act due to the following:</p> <p>During the Corps’ site visit on April 13, 2021, the Corps observed moderate OHWM and lack of flow or surface water within WWC-1 although the feature was observed during wetter than normal conditions. As cited in the JD report and observed during the site visit, WWC-1 lacked primary indicators of primary indicators of intermittent or perennial streams, including natural ground water table connection and obligate lotic organisms with >2 month aquatic phase.</p> <p>Based on evaluation of the information submitted on February 17, 2021 and a field review, WWC-1 was determined to have an ephemeral flow regime.</p>
WWC-2	51	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale,	<p>WWC-2 is an excluded water as an ephemeral feature and is not jurisdictional under the Navigable Waters Protection Rule of the Clean Water Act due to the following:</p> <p>During the Corps’ site visit on April 13, 2021, the Corps observed discontinuous OHWM and lack of flow or surface water within WWC-2 although the feature was observed</p>

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
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NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			gully, rill, or pool.	<p>during wetter than normal conditions. As cited in the JD report and observed during the site visit, WWC-2 lacked of primary indicators of intermittent or perennial streams, including natural ground water table connection and obligate lotic organisms with >2 month aquatic phase.</p> <p>Based on evaluation of the information submitted on February 17, 2021 and a field review, WWC-2 was determined to have an ephemeral flow regime.</p>
WWC-3	347	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	<p>WWC-3 is an excluded water as an ephemeral feature and is not jurisdictional under the Navigable Waters Protection Rule of the Clean Water Act due to the following:</p> <p>During the Corps' site visit on April 13, 2021, the Corps observed discontinuous OHWM and lack of flow or surface water within WWC-3 although the feature was observed during wetter than normal conditions. As cited in the JD report and observed during the site visit, WWC-3 lacked of primary indicators of intermittent or perennial streams, including natural ground water table connection and obligate lotic organisms with >2 month aquatic phase.</p> <p>Based on evaluation of the information submitted on February 17, 2021 and a field review, WWC-3 was determined to have an ephemeral flow regime.</p>
WWC-4	236	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	<p>WWC-4 is an excluded water as an ephemeral feature and is not jurisdictional under the Navigable Waters Protection Rule of the Clean Water Act due to the following:</p> <p>During the Corps' site visit on April 13, 2021, the Corps observed discontinuous OHWM and lack of flow or surface water within WWC-4 although the feature was observed during wetter than normal conditions. As cited in the JD report and observed during the site visit, WWC-4 lacked of primary indicators of intermittent or perennial streams, including natural ground water table connection and obligate lotic organisms with >2 month aquatic phase.</p> <p>Based on evaluation of the information submitted on February 17, 2021 and a field review, WWC-4 was determined to have an ephemeral flow regime.</p>



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
WWC-5	307	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	<p>WWC-5 is an excluded water as an ephemeral feature and is not jurisdictional under the Navigable Waters Protection Rule of the Clean Water Act due to the following:</p> <p>During the Corps' site visit on April 13, 2021, the Corps observed discontinuous OHWM and lack of flow or surface water within WWC-5 although the feature was observed during wetter than normal conditions. As cited in the JD report and observed during the site visit, WWC-6 lacked of primary indicators of intermittent or perennial streams, including natural ground water table connection and obligate lotic organisms with >2 month aquatic phase.</p> <p>Based on evaluation of the information submitted on February 17, 2021 and a field review, WWC-5 was determined to have an ephemeral flow regime.</p>
WWC-6	296	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	<p>WWC-6 is an excluded water as an ephemeral feature and is not jurisdictional under the Navigable Waters Protection Rule of the Clean Water Act due to the following:</p> <p>During the Corps' site visit on April 13, 2021, the Corps observed discontinuous OHWM and lack of flow or surface water within WWC-6 although the feature was observed during wetter than normal conditions. As cited in the JD report and observed during the site visit, WWC-6 lacked of primary indicators of intermittent or perennial streams, including natural ground water table connection and obligate lotic organisms with >2 month aquatic phase.</p> <p>Based on evaluation of the information submitted on February 17, 2021 and a field review, WWC-6 was determined to have an ephemeral flow regime.</p>
WWC-7	465	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	<p>WWC-7 is an excluded water as an ephemeral feature and is not jurisdictional under the Navigable Waters Protection Rule of the Clean Water Act due to the following:</p> <p>During the Corps' site visit on April 13, 2021, the Corps observed discontinuous OHWM and lack of flow or surface water within WWC-7 although the feature was observed during wetter than normal conditions. As cited in the JD report and observed during the site visit, WWC-7 lacked of primary indicators of intermittent or perennial streams, including natural ground water table connection and obligate lotic organisms with >2 month aquatic phase.</p> <p>Based on evaluation of the information submitted on</p>



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REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				February 17, 2021 and a field review, WWC-7 was determined to have an ephemeral flow regime.
WWC-8	177	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	<p>WWC-8 is an excluded water as an ephemeral feature and is not jurisdictional under the Navigable Waters Protection Rule of the Clean Water Act due to the following:</p> <p>During the Corps' site visit on April 13, 2021, the Corps observed discontinuous OHWM and lack of flow or surface water within WWC-7 although the feature was observed during wetter than normal conditions. As cited in the JD report and observed during the site visit, WWC-7 lacked of primary indicators of intermittent or perennial streams, including natural ground water table connection and obligate lotic organisms with >2 month aquatic phase.</p> <p>Based on evaluation of the information submitted on February 17, 2021 and a field review, WWC-8 was determined to have an ephemeral flow regime. Although WWC-8 is not jurisdictional, it does not sever the jurisdiction of PND-2 and WTL-1.</p>
PND-2	0.12	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	<p>PND-2 is an open-water feature located near the south central border of the review area, directly to the east of WTL-1. It is excluded because it does not meet the definition of an (a)(3) water and is ,therefore, not jurisdictional under the Navigable Waters Protection Rule of the Clean Water Act due to the following:</p> <p>(a) PND-2 is not an impoundment of an (a)(1)-(a)(4) water.</p> <p>(b) The JD report indicates that PND-2 has a constructed berm and seepage from the pond contributes to the hydrology of WTL-1. During the site visit on April 13, 2021, the Corps observed water from PND-2 flowing into WTL-1. However, to meet the definition of an (a)(3) water, PND-2 must contributes surface water flow to an (a)(1) directly or indirectly through an (a)(2)-(a)(4) water or a channelized non-jurisdictional feature.</p> <p>(c) Although the Corps' site visit on April 13, 2021 occurred during wetter than normal conditions, the Corps did not observe evidence of inundation by flooding from STR-3 or any (a)(1)–(a)(3) water.</p>



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REGULATORY PROGRAM
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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
WTL-1	0.09	acre(s)	(b)(1) Non-adjacent wetland.	<p>WTL-1 was delineated using the 1987 Wetlands Delineation Manual and Regional Supplements. It is a scrub-shrub and forested wetland located near the south central border of the review area. WTL-1 has 2 main hydrologic sources: runoff from the breached berm of PND-2 and groundwater input.</p> <p>WTL-1 is excluded as a non-adjacent wetland and is not jurisdictional under the Navigable Waters Protection Rule of the Clean Water Act due to the following:</p> <p>(a) WTL-1 does not abut STR-3 or any (a)(1)–(a)(3) water. Although the Corps’ site visit on April 13, 2021 occurred during wetter than normal conditions, the Corps did not observe evidence of inundation by flooding from STR-3 or any (a)(1)–(a)(3) water.</p> <p>(b) WTL-1 is not separated from STR-3 by any natural or artificial barriers.</p> <p>(c) During the Corps’ site visit, no channelized feature was observed between WTL-1 and STR-3 during wetter than normal conditions. Therefore, this feature does not abut an (a)(1)–(3) jurisdictional water; is not inundated by flooding from an (a)(1)–(3) water in a typical year; is not physically separated from an (a)(1)–(3) water solely by a natural berm, bank, dune, or similar natural feature; nor by an artificial dike, barrier, or similar artificial structure. This feature does not have perennial or intermittent concentrated flow and does not meet the definition of an (a)(1)–(3) water.</p>

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 DeterminationBrewer PropertyMurfreesboro, Rutherford County, Tennessee” (submitted February 17, 2021)

This information **is and is not** sufficient for purposes of this AJD.

Rationale: The feature identified as WWC-8 in the JD report was determined to meet the criteria of a stream by Tennessee Department of Environment and Conservation (TDEC), who provided the Corps with supplemental information and a copy of the Hydrologic Determination letter (referenced below).

- ☒ Data sheets prepared by the Corps: Notes from site visit on April 13, 2021



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- ☒ Photographs: **Aerial and Other:** Provided in JD Report, taken during Corps site visit, and provided by TDEC (dated 03/10/2021); Aerial Imagery retrieved from <https://www.historicaerials.com/viewer>
- ☒ Corps site visit(s) conducted on: April 13, 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: Provided in JD report and Soil Survey of Rutherford County (1977) [Map 23]
- ☒ USFWS NWI maps: Provided in JD Report
- ☐ 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
Other USGS data (specify)	https://apps.nationalmap.gov/viewer/
USDA NRCS WETS tables	Included in Antecedent Precipitation Tool, wetter than normal & normal
Other NOAA data (specify)	National Weather Service, Advanced Hydrologic Prediction Service
Other USACE data (specify)	Nashville Regulatory viewer
Other state/local data (specify)	Tennessee Department of Environment and Conservation (TDEC), Hydrologic Determination (DWR ID No. 24342) (dated April 14, 2021)
FEMA/FIRM maps	FEMA National Flood Hazard GIS layer

B. Typical year assessment(s): The Antecedent Precipitation Tool (APT) was used to evaluate the project area for the previous 90 days, with dates of March 10, 2021 and April 13, 2021. A single point centered on the center of the review area was used to evaluate the rainfall data and was determined to be sufficient based on the small geographic size of the site. The 90 day period preceding March 10, 2021 was determined to be normal, with rainfall wetter than normal (0.3 inch above 70th percentile) December 11, 2020-January 9, 2021 and within the normal range January 10-February 8, 2021 and February 9-March 10, 2021. The 90 day period preceding April 13, 2021 was determined to be wetter than normal, with rainfall within the normal range January 14-February 12, 2021 and February 13-March 14, 2021 and greatly exceeding the 70th percentile March 15-April 13, 2021. According to NOAA climatological data, between March 28 and March 31, 2021, this area had received 6.71 inches of rainfall, which exceeds the 70th percentile range of March 15-April 13, 2021 by nearly 1.2 inches. It is important to note that although the area experienced an extreme rainfall event 16 days prior to the site visit, between April 1 and April 13, the area only received 2.1 inches of rainfall.

C. Additional comments to support AJD: N/A or provide additional discussion as appropriate.