



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): August 31, 2021

ORM Number: LRN-2020-00645

Associated JDs: N/A

State/Territory: TN City: Alcoa County/Parish/Borough: Blount County

Center Coordinates of Review Area: Latitude 35.833571 Longitude -83.961623

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
Per-1	27 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	PER-1 (35.828138, -83.957247) exhibits perennial hydrology based on perennial aquatic life, biofilms, scour, sediment sorting, shelving, deposition, and bed/bank. PER-1 connects downstream to PER-2 at 35.828216, -83.957172 and then to Russell Branch, which are both (a)(2) streams, which connects to the Little River, an (a)(1) stream, in a typical year. No other natural or artificial non-jurisdictional features, such as non-jurisdictional surface water features, tunnels, debris piles, or boulder fields, are along the flow path within the review area. S2R2 is considered an (a)(2) stream under the Navigable Waters Protection Rule.

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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Per-2	612 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	PER-2 enters the survey area at 35.827525, -83.956716 and exhibits perennial hydrology based on perennial aquatic life, biofilms, scour, sediment sorting, shelving, deposition, and bed/bank. PER-2 connects downstream to Russell Branch at 35.829047, -83.957440, an (a)(2) stream, which connects to the Little River, an (a)(1) stream, in a typical year. No other natural or artificial non-jurisdictional features, such as non-jurisdictional surface water features, tunnels, debris piles, or boulder fields, are along the flow path within the review area. S2R2 is considered an (a)(2) stream under the Navigable Waters Protection Rule.
Per-3	45 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	PER-3 is the outflow from PND-1 at 35.829142, -83.957984 and exhibits perennial hydrology based on perennial aquatic life, biofilms, scour, sediment sorting, shelving, deposition, and bed/bank. PER-2 connects downstream to Russell Branch at 35.829031, -83., an (a)(2) stream, which connects to the Little River, an (a)(1) stream, in a typical year. No other natural or artificial non-jurisdictional features, such as non-jurisdictional surface water features, tunnels, debris piles, or boulder fields, are along the flow path within the review area. S2R2 is considered an (a)(2) stream under the Navigable Waters Protection Rule.
Russell Branch	1980 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Russell Branch enters the survey area at 35.828848, -83.958403 exhibits perennial hydrology based on perennial aquatic life, biofilms, scour, sediment sorting, shelving, deposition, and bed/bank. Russell Branch leaves the survey area at 35.829365, -83.956480 before connecting downstream to the Little River, an (a)(1) stream, in a typical year. No other natural or artificial non-jurisdictional features, such as non-jurisdictional surface water features, tunnels, debris piles, or boulder fields, are along the flow path within the review area. Russell Branch is considered an (a)(2) stream under the 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
PND-1	2.5 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	PND-1 (35.82930, -83.95830) holds water year around and contributes surface water flow to PER-3, an (a)(2) water in a typical year. Photographs by CEC on January 28, 2021 in the submitted JD report, as well as observations from a field inspection on March 4, 2021, showed that PND-1 was visibly impounded, but contributing flow to PER-3. Therefore, PND-1 meets the criteria of an (a)(3) lake, pond, or impoundment. There are no natural or artificial non-jurisdictional features, such as non-jurisdictional surface water features, culverts, tunnels, debris piles, or boulder fields along the flow path within the review area. As such, PND-1

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			qualifies as a jurisdictional water under the Navigable Waters Protection Rule.
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Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
WTL-1	2.01 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	WTL-1 (35.83940, -83.95690) was observed to abut PER-1 an (a)(2) water) based on field observations on March 4, 2021. It is classified as a wetland based on soils, vegetation, and hydrology. Because this feature connects to downstream (a)(1) waters via (a)(2) waters in a typical year, Wet A is classified as an (a)(4) water under the Navigable Waters Protection Rule.
WTL-2	0.39 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	WTL-2 (35.82900, -83.95720) was observed to abut PER-1 (an (a)(2) water) based on field observations on March 4, 2021. It is classified as a wetland based on soils, vegetation, and hydrology. Because this feature connects to downstream (a)(1) waters via (a)(2) waters in a typical year, Wet A is classified as an (a)(4) water under the Navigable Waters Protection Rule.
WTL-3	0.0023 acres	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year	WTL-2 (35.82850, -83.95740) was observed to abut PER-2 (an (a)(2) water) based on field observations on March 4, 2021. It is classified as a wetland based on soils, vegetation, and hydrology. Because this feature connects to downstream (a)(1) waters via (a)(2) waters in a typical year, Wet A is classified as an (a)(4) water under the Navigable Waters Protection Rule.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
INT-1	160 feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	INT-1 (35.83079, -83.95772) was determined to have an intermittent flow regime based on an evaluation of the submitted field data sheet, submitted drainage area maps, topographic maps, and online resources. However, this feature loses flow and transitions into ephemeral channel (WWC-1) and then into non channelized diffuse stormwater and overland sheet flow. There is not a surface water connection to an (a)(1), (a)(2) or (a)(3) water. Therefore INT-1 is not jurisdictional
WWC-1	240 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	WWC-1 (35.83042, -83.95738) was determined to have an ephemeral flow regime based on an evaluation of submitted reports, a site visits, and onsite photographs. WWC-1 contained no flowing water or isolated pools during the CEC, Inc site visit on January 28, 2021. WWC-1 loses bed and bank and transitions into overland sheet flow with no other downstream connection to an (a)(1), (a)(2) or (a)(3) water. Additionally, the USACE completed an office review of a variety of available resources, as described in Part III below, and conducted a site visit on March 4, 2021.

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			The available data and information support a determination that this is an ephemeral feature.
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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: *"Preliminary Jurisdictional Waters Determination, Cusick Road Connector" dated February 5, 2021* by CEC, Inc.
This information is sufficient for purposes of this AJD.
Rationale: *N/A*
- ☐ Data sheets prepared by the Corps: *N/A*
- ☒ Photographs: *(Aerial and Other: Aerial Imagery from Google Earth dated 03/15/1992 to 04/03/2021, USGS 3D Elevation Program (3DEP) access via LRN Regulatory Viewer and GIS base layers were obtained from ESRI/USGS. Site photos provided for each water feature within the jurisdictional waters request from the consultant's onsite observation on January 28, 2021. Site photos provided by RD during site visit on March 4,, 2021.*
- ☒ Corps Site visit(s) conducted on: *Date(s). March 4, 2021*
- ☐ Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s). N/A*
- ☒ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- ☒ USDA NRCS Soil Survey: *Accessed March 3, 2021 via NRCS Web Soil Survey website: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>.*
- ☒ USFWS NWI maps: *Provided in AJD request/delineation report and accessed within ORM2 March 3, 2021*
- ☒ USGS topographic maps: *TN-MARYVILLE 1:24K.*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Roddy Branch-Little River HUC 06010210110; 1:24,000; MARYVILLE TN Quadrangle Map
USDA Sources	NRCS WETS tables, Included on Antecedent Precipitation Tool, determined to be normal conditions
NOAA Sources	NCDC Palmer Drought Severity Index indicated Moderate Wetness for February 2021
USACE Sources	ORM2, National Regulatory Viewer, Accessed August 17, 2021.
State/Local/Tribal Sources	Tennessee Property Assessment (https://assessment.cot.tn.gov/RE_Assessment/)
Other Sources	N/A

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- B. Typical year assessment(s):** A site visit was conducted on March 4, 2021. The APT calculated that the date occurred during the wet season in which it showed that the observation occurred during a period of projected estimated increase in soil moisture over the entire year. The Output indicated that the date of the site visit was in normal conditions for the period. The Palmer Drought Severity Index (PDSI) indicated a condition of Moderate Wetness for this period. WebWIMP indicated this is the "Wet Season." Observed rainfall on the data collection date was within the expected limit for the 30-Year Normal Range. The Antecedent Condition Calculation was 13; indicating that the condition was Normal using two weather stations ranging from 1.7 miles to 4.4 miles from the project site.
- C.** .
- D. Additional comments to support AJD:** N/A or provide additional discussion as appropriate.

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