



**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): 5/12/2021

ORM Number: LRN-2021-00352

Associated JDs: N/A

Review Area Location¹: State/Territory: Tennessee City: Cleveland County/Parish/Borough: Bradley

Center Coordinates of Review Area: Latitude 35.126990 Longitude -84.818203

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.	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.	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.	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.	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
SWA	0.07	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).	SWA was determined to be an artificial pond excavated during the 1980's as part of a surface mining operation. The pond was constructed entirely in uplands and is not an impoundment of a jurisdictional water based on an evaluation of the submitted information, topographical maps, and online resources including the NHD layer and Stream Stats application.
WRA	0.13	acre(s)	(b)(1) Non-adjacent wetland.	<p>WRA was determined to be wetlands abutting SWA, and are the result of a surface mining operation. WRA is an excluded water as a non-adjacent water and is not jurisdictional under the Navigation Waters Protection Rule of the Clean Water Act due to the following:</p> <p>(a) WRA is not adjacent to an A(1) or A(2) stream. WRA is approximately 2,000 linear feet from the nearest mapped stream.</p> <p>(b) WRA does not abut at least one point or side of an (a)(1)-(3) water. WRA directly abuts SWA, a (b)(8) water.</p> <p>(c) WRA is not flooded by an (a)(1)-(3) water in a typical year.</p> <p>(d) WRA is not physically separated solely from a paragraph (a)(1)-(3) water by a natural berm, bank, dune, or similar natural feature and it is not physically separated from a paragraph (a)(1)-(3) by an artificial dike, barrier, or similar artificial structure.</p> <p>(e) WRA does not have perennial or intermittent 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.

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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☒ Information submitted by, or on behalf of, the applicant/consultant: [Vulcan Materials Company, Cleveland Quarry, Bradley County, Tennessee, Approved Jurisdictional Determination Request, HHNT Project No.: 8020-022-01, dated April 9, 2021](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

- ☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- ☒ Photographs: [Select. Photographs provided in the above reference report.](#)
- ☐ Corps site visit(s) conducted on: [N/A](#)
- ☐ 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: [Accessed May 12, 2021 via NRCS Web Soil Survey website:
<https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>.](#)
- ☒ USFWS NWI maps: [Accessed May 12, 2021 via Nashville District Regulatory Viewer.](#)
- ☒ USGS topographic maps: [Accessed May 12, 2021 via Nashville District Regulatory Viewer.](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Project area was reviewed on May 12, 2021.
USDA Sources	NRCS Web soil survey, reviewed on May 12, 2021.
NOAA Sources	N/A.
USACE Sources	Nashville District Regulatory Viewer, Accessed May 12, 2021.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): [The Antecedent Precipitation Tool was used to evaluate the project area for the previous 90 days, with a date of November 19, 2020, to coincide with the HHNT site visit. A single point centered on the center of the project site was used to evaluate the rainfall data and was determined to be sufficient based on the geographic size of the site. The 90 day period beginning September 20, 2020 was determined to be wetter than normal, with rainfall exceeding the 70th percentile for September and October, and normal for November. The APT indicates that streams were exhibiting higher than normal flow conditions during the site visit.](#)

C. Additional comments to support AJD: [N/A.](#)