



**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): 7/31/2020

ORM Number: LRN-2016-01002

Associated JDs: N/A

Review Area Location¹: State/Territory: TN City: New Hope County/Parish/Borough: Marion County

Center Coordinates of Review Area: Latitude 35.000644 Longitude -85.632534

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.
- 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 |
| S-2 | 598 | linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | S-2 was determined to be an ephemeral channel which flows into S-1 after high rain events. S-2 does not relocate a tributary, is not constructed in a tributary, and is not constructed in an adjacent wetland. The nearest visible stream is S-1, an intermittent stream. |
| S-4 | 72 | linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | S-2 was determined to be an ephemeral channel which flows into S-11 after high rain events. S-2 does not relocate a tributary, is not constructed in a tributary, and is not constructed in an adjacent wetland. The nearest visible stream is S-1, an intermittent stream. |

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: [USACE Preliminary Jurisdictional Determination, dated October 2, 2017, delineation report dated July 28, 2016.](#)

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: [Other: Photographs taken on July 14, 2016, submitted with the delineation report.](#)
- Corps site visit(s) conducted on: [N/A.](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [PJD dated October 2, 2017, File No. LRN-2016-01002.](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Accessed January 3, 2017 via NRCS Web Soil Survey website: https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx.](#)
- USFWS NWI maps: [Submitted with delineation report dated July 14, 2016.](#)
- USGS topographic maps: [Submitted with delineation report dated July 14, 2016.](#)

Other data sources used to aid in this determination:

| Data Source (select) | Name and/or date and other relevant information |
|--|--|
| USGS Stream stats | Project area was reviewed on July 27, 2020. |
| USDA NRCS WETS tables | Included on Antecedent Precipitation Tool, Determined to be normal conditions. |
| NOAA Sources | N/A. |
| Other USACE data (specify) | Nashville District Regulatory Viewer, Accessed July 27, 2020. |
| State/Local/Tribal Sources | N/A. |

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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| | |
|----------------------|---|
| Data Source (select) | Name and/or date and other relevant information |
| 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 an input date the same as the date of the site visit, January 9, 2017. 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 small geographic size of the site. The 90 day period beginning October 10, 2016 fell in the “normal conditions” range, though the 30-day rolling total of precipitation exceeded the 30-year normal range. Further, the PSDI Drought Index indicated “mild drought” conditions. The first 30 day period, from October 10, 2016 to November 10, 2016 experienced nearly zero rainfall and fell well below the 30-year normal range. The second 30 day period, from November 11, 2016 to December 10, 2016, experienced significant rainfall and rose well above the 30-year normal range. By comparison, the third 30 day period, from December 11, 2016 to January 9, 2017, began above the 30-year normal range but eventually fell to within the 30-year normal range as the 30 day period ended. The last half of the third 30 day period appears to fall within the normal range for rainfall, approximately 15 days of normal conditions preceding the site visit.
- C. Additional comments to support AJD:** The two features identified in Section II.D were previously observed to be ephemeral streams by USACE staff in a PJD dated October 2, 2017. Under the Navigable Waters Protection Rule, the definition of an ephemeral stream has not changed. These two features are still ephemeral streams and are excluded under 33 CFR 328.3(b)(3).