



**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-2020-00288

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Tennessee City: Ooltewah County/Parish/Borough: Hamilton County

Center Coordinates of Review Area: Latitude 35.014811 Longitude -85.092369

**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)<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
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.

<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 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)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Stream 2	1,301	linear 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.	Stream 2 is mapped as a perennial channel on the USGS NHD 24K stream layer. During the 6/11/2020 site visit, Stream 2 was documented to have an inconsistent OHWM, and did not have a defined bed and bank throughout the entire channel. In addition, Stream 2 did not have a defined connection to Stream 1 and was separated by approximately 100 linear feet.
Wetland 1	0.59	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland 1 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) Wetland 1 is not adjacent to an A(1) or A(2) stream.</p> <p>(b) Wetland 1 is approximately 100 linear feet west of Stream 1, however does not abut at least one point or side of an (a)(1)-(3) water.</p> <p>(c) Wetland 1 is not flooded by an (a)(1)-(3) water in a typical year. Google Earth aerial imagery from April 13, 2020 documented stream flow following a 6 inch storm event, and Wetland 2 did not receive any flooding from Stream 1 following an extreme rain event.</p> <p>(d) Wetland 1 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) Wetland 1 does not have perennial or intermittent flow and does not meet the definition of an (a)(1)-(3) water.</p>
Wetland 2	0.10	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland 2 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) Wetland 2 is not adjacent to an A(1) or A(2) stream.</p> <p>(b) Wetland 2 is approximately 100 linear feet west of Stream 1, however does not abut at least</p>

<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.



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
			<p>one point or side of an (a)(1)-(3) water.</p> <p>(c) Wetland 2 is not flooded by an (a)(1)-(3) water in a typical year. Google Earth aerial imagery from April 13, 2020 documented stream flow following a 6 inch storm event, and Wetland 2 did not receive any flooding from Stream 1 following an extreme rain event.</p> <p>(d) Wetland 2 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) Wetland 2 does not have perennial or intermittent flow and does not meet the definition of an (a)(1)-(3) water.</p>
Wetland 3	0.06	acre(s)	<p>(b)(1) Non-adjacent wetland.</p> <p>Wetland 3 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) Wetland 3 is not adjacent to an A(1) or A(2) stream.</p> <p>(b) Wetland 3 is approximately 485 linear feet west of Stream 1, however does not abut at least one point or side of an (a)(1)-(3) water.</p> <p>(c) Wetland 3 is not flooded by an (a)(1)-(3) water in a typical year.</p> <p>(d) Wetland 3 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) Wetland 3 does not have perennial or intermittent flow and does not meet the definition of an (a)(1)-(3) water.</p>
Pond 1	0.29	acre(s)	<p>(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</p> <p>Pond 1 was determined to be an artificial pond constructed wholly in uplands. A culvert provides flow to Stream 1, however, the pond did not have wetland characteristics around the perimeter or within the pond itself. In addition, NRCS soil maps indicate Ennis cherty silt loam, which is a non-hydric soil for the entire valley surrounding Pond 1. A review of 24k Topo maps, available aerial imagery, 24k NHD layer, and USFWS NWI maps do not indicate the pond was constructed in a jurisdictional water.</p>



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
		water that meets (c)(6).	

**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: [Hydrologic Determination Report for 2207 Ooltewah Ringgold Road, March 2020](#)

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 June 11, 2020 during Corps site visit.](#)

Corps site visit(s) conducted on: [June 11, 2020.](#)

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 June 30, 2020 via NRCS Web Soil Survey website:   
https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx.](#)

USFWS NWI maps: [Accessed June 30, 2020 via Nashville District Regulatory Viewer.](#)

USGS topographic maps: [Accessed June 30, 2020 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
<a href="#">USGS Stream stats</a>	<a href="#">Project area was reviewed on June 30, 2020. Both Stream 1 and 2 are mapped on Stream Stats, however site visit data indicated Stream 2 was non-jurisdictional as discussed in Section II.D above.</a>
<a href="#">USDA NRCS WETS tables</a>	<a href="#">Included on Antecedent Precipitation Tool, Determined to be wetter than normal</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">Other USACE data (specify)</a>	<a href="#">Nashville District Regulatory Viewer, Accessed June 30, 2020.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">N/A.</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 June 11, 2020. 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 April 12, 2020 was determined to be wetter than normal and the rainfall exceeded the 70th percentile, for all three 30 day periods. The drought index further describes the period as extreme wetness and the rainfall for the previous 30 days exceeded the 30-year rolling. The site also received 0.5" of rainfall within the previous 48 hours. No flow was observed in Stream 1 below the confluence of Stream 2 and was determined to be intermittent and no flow was observed in Stream 2 and the reach was determined to be excluded per \(b\)\(1\) surface water channel that does not contribute surface water flow directly or indirectly to an \(a\)\(1\) water in a typical year.](#)

**C. Additional comments to support AJD:** [N/A or provide additional discussion as appropriate.](#)