



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): 02-Dec-2020  
ORM Number: LRN-2020-00624  
Associated JDs: N/A  
Review Area Location<sup>1</sup>:

State/Territory: KY City: County/Parish/Borough: Laurel County  
Center Coordinates of Review Area: Latitude 37.153202 Longitude -84.101819

**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)<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 and 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 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.

<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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**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 Ephemeral	615 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Channel-1 was determined to have ephemeral flow regime based on an evaluation of the submitted hydrologic determination forms, topographical maps, Antecedent Precipitation Tool, and online resources along with USACE Site Visit that was conducted. There was an absence of a continuous OHWM throughout the channel. A review of aerial imagery and site evaluation concludes the channels starting terminus is at 37.15260, -84.10130 and end terminus is at 37.15268, -84.10326 at the perennial unnamed tributary to Woods Creek. NHD and NWI layers do not have the feature mapped.
Wetland A		(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel	Wetland A was found to be a depression in uplands that was incidental to construction: 37.15396, -84.10277
Vernal Pool	0.02 acres	(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)	The vernal pool was determined to be a pond constructed in uplands for past agricultural use. Location: 37.15272, -84.10051

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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: Waters of the US Delineation Report, Third Rock, August 12 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: Aerial: Google Earth June 6, 2018; Other: Included in Waters of U.S. Delineation Report, Third Rock, August 12, 2020
- Corps Site visit(s) conducted on: *Date(s)*. *2-Sep-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 September 1, 2020 via Nashville District Regulatory Viewer
- USFWS NWI maps: Accessed September 1, 2020 via Nashville District Regulatory Viewer
- USGS topographic maps: 1:24K KY-LONDON.

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA NRCS WETS tables	Included on Antecedent Precipitation Tool, determined to be wetter than normal.
NOAA NCDC Palmer Drought Severity Index	For the evaluation period, the location was determined to be "Extreme Wetness" +4.00 and above.
USACE Sources	Nashville District Regulatory Viewer, Accessed August 27, 2020.
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 September 2, 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 June 2, 2020 was determined to be wetter than normal. The rainfall exceeded the 70th percentile, for the last 30-day period. The drought index further describes the period as wetter than normal, and the rainfall for the previous 30 days exceeded the 30-year rolling. No flow was observed in Stream 2 and was determined to be ephemeral

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

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