



**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): 3/30/2021  
 ORM Number: LRH-2015-736-OHR  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: West Virginia City: Smithburg and Hurricane  
 County/Parish/Borough: Doddridge and Cabell  
 Center Coordinates of Review Area: Latitude 39.314, 38.404 Longitude -80.703, -82.1187

**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.	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.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
NA.	NA.	N/A.	N/A.	NA.

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.

<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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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

**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 sdog406	41	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream sdog406 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream sdog407	38	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream sdog407 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream sdog408	36	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream sdog408 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream sdog409	11	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream sdog409 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream sdog410	4	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream sdog410 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream scho800	32	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream scho800 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream scbg513	36	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream scbg513 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.

**III. SUPPORTING INFORMATION**

<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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**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: [Environmental Resources Management, on behalf of TC Energy, submitted delineation information for Mountaineer XPress Pipeline on 5 February 2021](#)  
This information is sufficient for purposes of this AJD.  
Rationale: [The information provided by or on behalf of the applicant accurately reflects the district's conclusions on the AJD.](#)
- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Other: Information received 5 February 2021](#)
- Corps site visit(s) conducted on: [Date\(s\).](#)
- Previous Jurisdictional Determinations (AJDs or PJDs):
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Title\(s\) and/or date\(s\).](#)
- USFWS NWI maps: [ORM dataset accessed Mar 2021](#)
- USGS topographic maps: [Title\(s\) and/or date\(s\).](#)

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

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">ORM dataset NHD map accessed Mar 2021</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">ORM Aquatic Resources Layer</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):** A typical year occurs over a rolling thirty year period and includes the analysis of precipitation and other climatic variables to establish a normal period range (seasonally or annually) for a specific geographic region where the aquatic resource occurs. Two (2) point-in-time data source, dated 7 June 2016 and 8 May 2017, with a corresponding APT reports, were included in the evaluation for the excluded features on-site. The antecedent precipitation tool was utilized to determine typical year for point-in-time data sources. Based on the antecedent precipitation tool, 7 June 2016 is included during the Web-based Water-Budget Interactive Modeling Program dry season and has a Palmer Drought Severity Index of (0.85) incipient wetness and an antecedent precipitation condition score of 17. The antecedent precipitation condition is considered “wetter than normal” for that point in time. Based on the antecedent precipitation tool, 8 May 2017 is included during the Web-based Water-Budget Interactive Modeling Program wet season and has a Palmer Drought Severity Index of (0.67) incipient wetness and an antecedent precipitation condition score of 10. The antecedent precipitation condition is considered “normal” for that point in time.

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