



**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): 8/31/2020  
 ORM Number: LRH-2020-673-KAN; Left Fork Crane Creek  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: WV City: McComas County/Parish/Borough: Mercer  
 Center Coordinates of Review Area: Latitude 37.41242 Longitude -81.31236

**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):within the AJD Boundary			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Left Fork of Crane Creek (lower segment)	8650 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The stream is a tributary of the Bluestone River. The Bluestone River flows into the New River, a navigable water of the U.S. Refer to the enclosed map entitled “Titan Surface Mine Jurisdictional Determination Map”. The stream was observed with intermittent flow during the July 2020 site visit. This segment is located below the groundwater seep at the Pocahontas 11 coal seam elevation and drives the hydrology for this section of the stream.

<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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Tributaries ((a)(2) waters):within the AJD Boundary				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Red Hollow (lower segment)	1700	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The stream is a tributary of Left Fork Crane Creek, which flows into the Bluestone River, and then into the New River, a navigable water of the U.S. Refer to the enclosed map entitled "Titan Surface Mine Jurisdictional Determination Map". The stream was observed with intermittent flow during the July 2020 site visit. This segment is located below the groundwater seep at the Pocahontas 9 coal seam which drives the hydrology for this segment of the stream.

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.

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup> within the AJD boundary.				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Left Fork Crane Creek (upper segment)	1200	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The drainageway only provides ephemeral flow, does not consistently present a continually clearly defined bed and ordinary high water mark, and has no evidence of physical or biological indicators of intermittent flow. This segment of the stream is located above the elevation of the Pocahontas 11 coal seam at the site and does not have any groundwater influence. See Section B for additional 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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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup> within the AJD boundary.				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Red Hollow (upper segment)	2700	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The drainageway only provides ephemeral flow, does not consistently present a continually clearly defined bed and ordinary high water mark, and has no evidence of physical or biological indicators of intermittent flow. This segment is located above the Pocahontas 9 coal seam and does not have any groundwater influence. See Section B for additional information

**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: True Line, Inc., in a letter dated July 28, 2020, requested an AJD for streams identified in the report entitled “Jurisdictional Determination Request for the Titan Surface Mine Project Area – Mercer County, West Virginia – Prepared for Cornerstone Mining LLC – dated July 29, 2020” and attached delineation mapping entitled “Cornerstone Mining LLC – Titan Surface Mine Jurisdictional Determination Map – July 2020”.

This information is sufficient for purposes of this AJD.

Rationale: The consultant has provided all of the additional information requested to clarify site conditions. The information provided is sufficient to verify the stream locations.

- Data sheets prepared by the Corps: Title(s) and/or date(s).
- Photographs: Other: Photos provided in the July 28, 2020 Delineation Report
- Corps site visit(s) conducted on: Date(s).
- 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: Title(s) and/or date(s).
- USFWS NWI maps: Title(s) and/or date(s).
- 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
USGS/WBD/NHD data/maps	NHD map accessed through LRH Regulatory GIS Viewers
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A



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- B. Typical year assessment(s):** The antecedent precipitation tool was utilized to determine typical year for point-in-time data sources. The site delineation was conducted on July 14, 2020 during a period of below average rainfall. The applicant indicated there was no rainfall during the site investigation and during the two days prior to the site investigation, and based on the antecedent precipitation tool, the 30-day rolling total for precipitation was slightly lower than the 30-year normal range during the July 2020 sampling event.
- C. Additional comments to support AJD:** Attached “Cornerstone Mining LLC – Titan Surface Mine Jurisdictional Determination Map – July 2020”, has been determined to be accurate.