



**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): 12/15/2020

ORM Number: LRH-2020-785-OHR-Price Run

Associated JDs: N/A

Review Area Location¹: State/Territory: West Virginia City: Pricetown County/Parish/Borough: Wetzel and Marion

Center Coordinates of Review Area: Latitude 39.513118 Longitude -80.482131

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)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
Stream 3	185 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 3 is an intermittent, direct tributary to Price Run, an (a)(2) water and direct tributary to the Ohio River, an (a)(1) TNW, at a location outside of the AOI. Stream 3 contributes surface water flow indirectly to the Ohio River, an (a)(1) TNW, in a typical year (reference Section III B of this AJD form). Approximately 5 lf of Stream is conveyed within the AOI through Culvert 1. Up- and downstream flows are maintained on either side of the artificial structure and jurisdiction is not severed.

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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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Stream 13	124	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 13 is an intermittent, direct tributary to Glade Fork, an (a)(2) water and indirect tributary to the Ohio River, an (a)(1) TNW, at a location outside of the AOI. Stream 13 contributes surface water flow indirectly to the Ohio River, an (a)(1) TNW, in a typical year (reference Section III B of this AJD form).
Stream 14	1002	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 14 is an intermittent portion of Price Run, an (a)(2) water and indirect tributary to the Ohio River, an (a)(1) TNW, at a location outside of the AOI. Stream 14 contributes surface water flow indirectly to the Ohio River, an (a)(1) TNW, in a typical year (reference Section III B of this AJD form). Approximately 18 lf of Stream 14 is conveyed within the AOI through Culvert 4. Up- and downstream flows are maintained on either side of the artificial structure and jurisdiction is not severed.

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)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Stream 1	441	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 1 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream 2	150	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 2 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream 4	104	linear feet	(b)(3) Ephemeral feature, including	Stream 4 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3).

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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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			an ephemeral stream, swale, gully, rill, or pool	Reference Section III D for typical year assessments.
Stream 5	546	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 5 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream 6	233	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 6 is an intermittent stream that connects Wetland C and Wetland D, both determined to be (b)(1) non-adjacent wetlands. The surface water channel does not extend beyond the wetlands and does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year. Reference Section III D for typical year assessments.
Stream 7	341	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 7 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream 8	214	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 8 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream 9	303	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 9 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream 10	516	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 10 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream 11	326	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 11 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream 12	259	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 12 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland A	0.014	acre(s)	(b)(1) Non-adjacent wetland.	Wetland is not in direct contact with, not located in a position to be inundated by, and not naturally or artificially separated from a water defined in 328.3(a)(1)-(a)(3)
Wetland B	0.023	acre(s)	(b)(1) Non-adjacent wetland.	Wetland is not in direct contact with, not located in a position to be inundated by, and not naturally or artificially separated from a water defined in 328.3(a)(1)-(a)(3)
Wetland C	0.015	acre(s)	(b)(1) Non-adjacent wetland.	Wetland is not in direct contact with, not located in a position to be inundated by, and not naturally or artificially separated from a water defined in 328.3(a)(1)-(a)(3)
Wetland D	0.058	acre(s)	(b)(1) Non-adjacent wetland.	Wetland is not in direct contact with, not located in a position to be inundated by, and not naturally or artificially separated from a water defined in 328.3(a)(1)-(a)(3)
Wetland E	0.02	acre(s)	(b)(1) Non-adjacent wetland.	Wetland is not in direct contact with, not located in a position to be inundated by, and not naturally or artificially separated from a water defined in 328.3(a)(1)-(a)(3)
Wetland F	0.06	acre(s)	(b)(1) Non-adjacent wetland.	Wetland is not in direct contact with, not located in a position to be inundated by, and not naturally or artificially separated from a water defined in 328.3(a)(1)-(a)(3)

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: Dieffenbauch & Hritz, LLC., on behalf of EQT Production Company, submitted a delineation report for Tesla Well Site dated 11 November 2020 (JD, Nov 2020).

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: Appendix D: Site Photographs 1-78 (JD, Nov 2020).
- 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: Figure 4. NRCS Soils Map (JD, Nov 2020)
- USFWS NWI maps: Figure 3. FIRM, NWI & NHD Map (JD, Nov 2020).
- USGS topographic maps: Figure 2. USGS Topographic Map (JD, Nov 2020)

Other data sources used to aid in this determination:



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Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	ORM Aquatic Resources Layer
State/Local/Tribal Sources	N/A.
Other Sources	Historicaerials.com aerial photographs for years: 1985, 1996, 2003, 2007, 2009, 2011, 2014 and 2016

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. One (1) point-in-time data source, dated 11 June 2020, with a corresponding APT report, was 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, 11 June 2020 is included during the Web-based Water-Budget Interactive Modeling Program dry season and has a Palmer Drought Severity Index of (2.51) moderate wetness and an antecedent precipitation condition score of 12. 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.](#)