



**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): 12/2/2020
 ORM Number: LRH-2020-787-TUG; Ison Ridge Project Area
 Associated JDs: NA
 Review Area Location¹: State/Territory: WV City: Panther County/Parish/Borough: McDowell County
 Center Coordinates of Review Area: Latitude 37.480 Longitude -81.980

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 A: Intermitt. Reach Trib of Briar Branch	876 linear feet (LF)	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Observed flow from confluence up to groundwater outflow source. Remaining upslope channel dry. Surface connection to intermittent Briar Branch of perennial Bull Creek of Tug Fork.
Stream B: Intermitt. Reach	619 LF	(a)(2) Intermittent tributary.	Observed flow from confluence up to groundwater outflow source. Remaining upslope channel dry. Surface connection to intermittent Briar Branch of Bull Creek.

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 C (Briar Branch): Intermitt. section	1253	LF	(a)(2) Intermittent tributary.	Observed flow for 1253 ft. Dry channel upslope. Surface connection to Bull Creek of Tug Fork. USGS map indicates intermittent.
Stream F: Intermitt. section	971	LF	(a)(2) Intermittent tributary.	Observed flow for 971 ft. Dry channel upslope. Surface Connection to Briar Branch of Bull Creek.
Stream I Intermitt. section	800	LF	(a)(2) Intermittent tributary.	Observed flow for 800 ft. Dry channel upslope. Surface connection to Briar Branch.
Stream J	1568	LF	(a)(2) Intermittent tributary.	Observed flow from confluence up to groundwater outflow source. No channel upslope. Surface connection to Briar Branch.
Stream K	569	LF	(a)(2) Intermittent tributary.	Observed flow from confluence up to groundwater outflow source. No channel upslope. Surface connection to Franks Branch (Stream O).
Stream L	871	LF	(a)(2) Intermittent tributary.	Observed flow from confluence up to groundwater outflow source. No channel upslope.
Stream M	681	LF	(a)(2) Intermittent tributary.	Observed flow from confluence up to groundwater outflow source. No channel upslope. Surface connection to Franks Branch of Bull Creek.
Stream N: Intermitt. section	537	LF	(a)(2) Intermittent tributary.	Observed flow from confluence up to groundwater outflow source just below old mine bench. No flow in remaining channel upslope. Surface connection to Franks Branch.
Stream O (Franks Branch): Intermitt. section	2234	LF	(a)(2) Intermittent tributary.	Observed flow from confluence up to confluence with Stream P located 280 ft downslope of old mine bench. No flow in remaining channel upslope. USGS indicates intermittent stream. Surface connection to Bull Creek of Tug Fork.
Stream Q Intermitt. section	570	LF	(a)(2) Intermittent tributary.	Observed flow from confluence up to groundwater outflow source. No flow in remaining channel upslope. Surface connection to Franks Branch of Bull Creek of Tug Fork.
Stream R Intermitt. section	202	LF	(a)(2) Intermittent tributary.	Observed flow from confluence up to groundwater outflow source. No flow in remaining channel upslope and no indicators of extended flow. Surface connection to Franks Branch of Bull Creek of Tug Fork.
Stream S Intermitt. section	1240	LF	(a)(2) Intermittent tributary.	Observed flow from confluence up to groundwater outflow source. Channel dry updrain of that point with no indicators of extended flow. Surface connection to Franks Branch of Bull Creek of Tug Fork.
Stream T	873	LF	(a)(2) Intermittent tributary.	Observed flow from confluence up to groundwater outflow source. No channel upslope. Surface connection to Franks Branch of Bull Creek of Tug Fork.
Stream U	969	LF	(a)(2) Intermittent tributary.	Observed flow along entire length from confluence with Stream O up to groundwater outflow source. No channel further updrain. Surface connection to Franks Branch of Bull Creek of Tug Fork.
Stream V Intermitt. section	187	LF	(a)(2) Intermittent tributary.	Observed flow from lowest end up to groundwater outflow source. Surface connection to intermittent Stream X tributary to Bull Creek of Tug Fork.
Stream W	450	LF	(a)(2) Intermittent tributary.	Observed flow along entire length to groundwater outflow source. No channel further updrain. Surface connection to intermittent Stream X tributary to Bull Branch of Tug Fork.



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(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Stream X Intermitt. section	180	LF	(a)(2) Intermittent tributary.	Observed flow from mouth up to E/I point located just downslope of confluence with Stream Y. USGS map indicates intermittent. Surface connection to Bull Creek.
Stream Z	1180	LF	(a)(2) Intermittent tributary.	Observed flow from confluence with Stream A up to groundwater outflow source. Dry channel upslope. Surface connection to Briar Branch of Bull Creek.
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 A Ephemeral section	684	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Observed dry channel section with no indicators of extended flow.
Stream B Ephemeral section	300	linear feet	(b)(3) Ephemeral feature...	Observed dry channel section with no indicators of extended flow.
Stream C Ephemeral section	473	linear feet	(b)(3) Ephemeral feature...	Observed dry channel section with no indicators of extended flow.
Stream D	361	linear feet	(b)(3) Ephemeral feature...	Observed dry bed along entire channel with no indicators of extended flow.
Stream F Ephemeral section	543	linear feet	(b)(3) Ephemeral feature	Observed dry channel section with no indicators of extended flow.
Stream G	214	linear feet	(b)(3) Ephemeral feature	Observed dry bed along entire channel with no indicators of extended flow.
Stream H	352	linear feet	(b)(3) Ephemeral feature	Observed dry bed along entire channel with no indicators of extended flow.
Stream I Ephemeral section	369	linear feet	(b)(3) Ephemeral feature	Observed dry channel section with no indicators of extended flow.
Stream N Ephemeral section	120	linear feet	(b)(3) Ephemeral feature	Observed dry channel section with no indicators of extended flow.
Stream O Ephemeral section	190	linear feet	(b)(3) Ephemeral feature	Observed dry channel section with no indicators of extended flow.
Stream P	263	linear feet	(b)(3) Ephemeral feature	Observed dry bed along entire channel with no indicators of extended flow.
Stream Q Ephemeral section	246	linear feet	(b)(3) Ephemeral feature	Observed dry channel section with no indicators of extended flow.
Stream R Ephemeral section	214	linear feet	(b)(3) Ephemeral feature	Observed dry channel with no indicators of extended flow.

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
Stream S Ephemeral section	112	linear feet	(b)(3) Ephemeral feature	Observed dry channel with no indicators of extended flow.
Stream V Ephemeral section	152	linear feet	(b)(3) Ephemeral feature	Observed dry bed above E/I point with no indicators of extended flow. E/I point located at groundwater outflow.
Stream X Ephemeral reach.	439	linear feet	(b)(3) Ephemeral feature	Observed dry bed above E/I point with no indicators of extended flow. E/I point located below confluence with Stream X.
Stream Y	178	linear feet	(b)(3) Ephemeral feature	Observed dry bed along entire channel. Trib of ephemeral Stream X.
Stream Z ephemeral section	143 2	linear feet	(b)(3) Ephemeral feature	Observed dry channel with no indicators of extended flow.

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: **JD report dated 11-3-2020**
This information is **not** sufficient for purposes of this AJD.
Rationale: **Insufficient photographic documentation.**
- Data sheets prepared by the Corps: **Title(s) and/or date(s).**
- Photographs: **Aerial and Other: Photos provided in the JD 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 Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	National Hydrology Database (NHD) map overlays.

B. Typical year assessment(s): Field work performed the first week of April 2020, and a wet period of June 2020. The Corps' Antecedent Precipitation Tool indicates the field work in April and June 2020 were performed during a time when precipitation was within or above the 30-year averaged range. This information indicates the observed dry channels were indicative of ephemeral flow regime rather than dry intermittent streams.

C. Additional comments to support AJD: See attached Table of Waters and AJD Map titled "The Black Diamond Company, Ison Ridge Preliminary Jurisdictional Determination Map, June 2020"