



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

1. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD):
 ORM Number: **LRH-2021-119-GUY**
 Associated JDs: **NA**
 Review Area Location¹: State: **WV** City: **Sprattsville** County: **Mingo**; **37.5939 -81.8614**
Neds Branch Watershed (trib of Guyandotte River)

2. FINDINGS

A. Summary:

- 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: **NA or describe.**
- 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 the 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.	

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.	

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
NB-1 [Neds Branch]: perennial and intermittent sections	11,925 LF	(a)(2) Perennial and intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Flow observed. USGS Map/NHD shows NB-1 as a solid line for approx 2,930 LF from mouth to confluence with its 2 nd left trib (TNB-3), where it changes from 4 th order to 3 rd order. However, the info evaluated for this AJD is insufficient to verify actual location of the perennial/intermittent transition point. Therefore, the Corps verifies this reach as perennial/intermittent.

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If a 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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NB 31 – intermittent section	514 LF	(a)(2) Intermittent tributary contributes surface water flow...	Flow observed. Defined channel with varied substrate sizes.
UTNB-1 intermittent section	4,191 LF	(a)(2) Intermittent tributary contributes surface water flow...	Flow observed to E/I point. Variety of substrate. 180-acre drainage.
UTNB 1.1 intermittent section	872 LF	(a)(2) Intermittent tributary contributes surface water flow...	Flow observed in defined channel to E/I point.
UTNB 2 (trib of UTNB-3)	3,053 LF	(a)(2) Intermittent tributary contributes surface water flow...	USGS map shows dashed blue line.
UTNB 3 (trib of Ned Branch) intermittent reach	6,207 LF	(a)(2) Perennial and Intermittent tributary contributes surface water flow...	Flow observed. USGS map shows dashed (intermittent) line (from junction with Neds Branch to E/I location at 37.58145; -81.866576). But info insufficient to verify P/I location. Therefore, the Corps verifies this reach as perennial/intermittent.
UTNB 3.1 intermittent section	1,611 LF	(a)(2) Intermittent tributary contributes surface water flow...	Flow observed to its E/I point. at 37.58098; -81.86935
UTNB 3.5 intermittent section	216 LF	(a)(2) Intermittent tributary contributes surface water flow...	Flow observed. Well established channel. Variety of substrate size.
UTNB 4 intermittent section	2,382 LF	(a)(2) Intermittent tributary contributes Surface water flow...	Flow observed. Well established channel. Wide range of substrate.
UTNB 5 intermittent section	1,175 LF	(a)(2) Intermittent tributary contributes surface water flow...	Flow observed in this stream and its trib. 5.2. Second order stream. 50-acre watershed.
UTNB 5.2 intermittent section	408 LF	(a)(2) Intermittent tributary contributes surface water flow...	Flow observed to E/I point.
UTNB 5.3 intermittent section	308 LF	(a)(2) Intermittent tributary contributes surface water flow...	Flow observed to E/I point.
UTNB 6 intermittent section	790 LF	(a)(2) Intermittent tributary contributes surface water flow...	Flow observed (to end of OHWM)
UTNB 7 intermittent section	631 LF	(a)(2) Intermittent tributary contributes surface water flow...	Groundwater outflow at bedrock section (E/I point). 2 nd order stream.
		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
NA	NA	NA	

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale
		N/A.	



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D. Excluded Waters or Features

Excluded Waters ((b)(1) thru (b)(12):⁴			
Exclusion Name	Exclusion Size	Exclusion⁵	Rationale for determination
NB-1	943 linear feet (LF)	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	No flow. Narrow, shallow channel. No indicators of extended flow.
NB-1.1	203 LF	(b)(3) Ephemeral feature...	Observed minor runoff flow from road. Narrow, shallow channel. No indicators of extended flow.
NB-1.2	955 LF	(b)(3) Ephemeral feature...	Observed minor runoff flow from bench. Narrow shallow channel. No indicators of extended flow.
NB-1.3	857 LF	(b)(3) Ephemeral feature...	No flow. Narrow, shallow channel. No indicators extended flow.
NB-1.4	166 LF	(b)(3) Ephemeral feature...	Observed minor runoff flow from road. Narrow, shallow channel. No indicators of extended flow
NB-1.5	110 LF	(b)(3) Ephemeral feature...	No flow. Narrow, shallow channel. No indicators extended flow.
NB-1.6	220 LF	(b)(3) Ephemeral feature...	Observed minor runoff flow. Narrow, shallow channel. No indicators of extended flow.
NB-1.7	244 LF	(b)(3) Ephemeral feature...	No flow. Narrow, shallow scour channel begins at road/bench. No indicators of extended flow.
NB-1.8	458 LF	(b)(3) Ephemeral feature...	No flow. Narrow, shallow poorly defined channel begins at road/bench. Debris. No indicators of extended flow.
NB-1.9	742 LF	(b)(3) Ephemeral feature...	“ “ “ “
NB-1.10	440 LF	(b)(3) Ephemeral feature...	“ “ “ “
NB-1.11	672 LF	(b)(3) Ephemeral feature...	“ “ “ “
NB-1.12	836 LF	(b)(3) Ephemeral feature...	“ “ “ “
NB-1.13	359 LF	(b)(3) Ephemeral feature...	Ephemeral runoff flow from road culvert Very small drainage area. No indicators of extended flow.
NB-1.14	488 LF	(b)(3) Ephemeral feature...	No flow. Narrow, shallow channel. No indicators extended flow.
NB-1.15	541 LF	(b)(3) Ephemeral feature...	Observed minor runoff flow from road. Narrow, shallow channel. No indicators of extended flow.
NB-1.16	200 LF	(b)(3) Ephemeral feature...	Observed minor runoff flow. Narrow, shallow channel. No indicators of extended flow.
NB-1.17	162 LF	(b)(3) Ephemeral feature...	No flow. Narrow, shallow channel. No indicator extended flow.
NB-1.18	208 LF	(b)(3) Ephemeral feature...	Ephemeral runoff flow from road. Narrow, shallow channel. Debris. Very small drainage area. No

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 the 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 subcategories of the (b)(1) exclusions were administratively created for the purpose 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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			indicators of extended flow.
NB-1.19	335 LF	(b)(3) Ephemeral feature...	Ephemeral runoff flow from road. Narrow, shallow channel. 6.4 acre drainage area. No indicators of extended flow.
NB-1.20	147 LF	(b)(3) Ephemeral feature...	No flow. Narrow, shallow channel. Debris. No indicators of extended flow.
NB-1.21	604 LF	(b)(3) Ephemeral feature...	“ “ “ “
NB-1.22	692 LF	(b)(3) Ephemeral feature...	“ “ “ “
NB-1.23	806 LF	(b)(3) Ephemeral feature...	“ “ “ “
NB-1.24	334 LF	(b)(3) Ephemeral feature...	“ “ “ “
NB-25	316 LF	(b)(3) Ephemeral feature...	“ “ “ “
NB-26	384 LF	(b)(3) Ephemeral feature...	“ “ “ “
NB-27	423 LF	(b)(3) Ephemeral feature...	“ “ “ “
NB-28	505 LF	(b)(3) Ephemeral feature...	“ “ “ “
NB-29	518 LF	(b)(3) Ephemeral feature...	“ “ “ “
NB-30	506 LF	(b)(3) Ephemeral feature...	“ “ “ “
NB-31	248 LF	(b)(3) Ephemeral feature...	Ephemeral runoff flow in narrow, shallow channel. No observed groundwater outflow or indicators of extended flow.
NB-31.1	149 LF	(b)(3) Ephemeral feature...	Minor ephemeral runoff flow. Narrow, shallow channel. Debris. No observed groundwater outflow. No indicators of extended flow.
NB-32	434 LF	(b)(3) Ephemeral feature...	No flow. Narrow, shallow channel. Debris. No indicators of extended flow.
NB-33	299 LF	(b)(3) Ephemeral feature...	Observed minor runoff flow. Narrow, shallow channel, no observed groundwater outflow. No indicators of extended flow.
NB-34	714 LF	(b)(3) Ephemeral feature...	No flow. Narrow, shallow channel. No indicators of extended flow.
NB-35	667 LF	(b)(3) Ephemeral feature...	Observed minor runoff flow. Narrow channel, no observed groundwater outflow. No indicators of extended flow.
NB-36	604 LF	(b)(3) Ephemeral feature...	Observed minor runoff flow. Narrow channel, no observed groundwater outflow. No indicators of extended flow.
UTNB-1 Ephemeral section	112 LF	(b)(3) Ephemeral feature...	No flow. Narrow, shallow channel. No indicators extended flow.
UTNB-1.1	525 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB-1.2	117 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 1.3	207 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 1.4	363 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 1.5	112 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 1.6	315 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB-2	665 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB-2.1	590 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 2.2	537 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB .2.3	575 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 2.4	443 LF	(b)(3) Ephemeral feature...	“ “ “ “



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UTNB 2.5	276 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 2.6	393 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 2.7	291 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 2.8	98 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 3	183 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 3.1	601 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 3.2	244 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 3.3	207 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 3.4	843 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 3.5	365 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 3.7	351 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 3.7	354 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 3.8	1,514 LF	(b)(3) Ephemeral feature...	“ “ “ “
UTNB 4.2	321 LF	(b)(3) Ephemeral feature...	Ephemeral runoff from road/bench). Narrow, shallow V channel. No indicator of groundwater outflow. Very small drainage area. No indicators of extended flow.
UTNB 4.3	137 LF	(b)(3) Ephemeral feature...	
UTNB 4.4	129 LF	(b)(3) Ephemeral feature...	
UTNB 4.5	286 LF	(b)(3) Ephemeral feature...	
UTNB 4.6	668 LF	(b)(3) Ephemeral feature...	
UTNB 4.7	643 LF	(b)(3) Ephemeral feature...	
UTNB 4.9	131 LF	(b)(3) Ephemeral feature...	
UTNB 4.10	262 LF	(b)(3) Ephemeral feature...	
UTNB 4.11	133 LF	(b)(3) Ephemeral feature...	
UTNB 4.11			
UTNB 5.1	780 LF	(b)(3) Ephemeral feature...	Dry, narrow, shallow, poorly defined channel. Small drainage area. Not delineated on USGS map.
UTNB 5.2 ephemeral section	227 LF	(b)(3) Ephemeral feature...	
UTNB 5.3 ephemeral section	369 LF	(b)(3) Ephemeral feature...	
UTNB 5.4	172 LF	(b)(3) Ephemeral feature...	
UTNB 5.5	161 LF	(b)(3) Ephemeral feature...	
UTNB 5.6	456 LF	(b)(3) Ephemeral feature...	
UTNB 5.7	538 LF	(b)(3) Ephemeral feature...	
UTNB 5.8	125 LF	(b)(3) Ephemeral feature...	
UTNB 6 ephemeral section	357 LF	(b)(3) Ephemeral feature...	



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UTNB 6.1	467 LF	(b)(3) Ephemeral feature...	Dry, narrow, shallow channel. Mud substrate. Debris. Small drainage area. Not on USGS map.
UTNB 6.2	103 LF	(b)(3) Ephemeral feature...	
UTNB 7 ephemeral section	210 LF	(b)(3) Ephemeral feature...	No flow. Narrow, shallow channel. Debris. Small drainage size. Not delineated on USGS map.
UTNB 7.1	94 LF	(b)(3) Ephemeral feature...	Photos show dry, narrow, shallow channel, poorly defined. Not delineated on USGS map.
UTNB 7.2	145 LF	(b)(3) Ephemeral feature...	
UTNB 7.3	89 LF	(b)(3) Ephemeral feature...	Dry, narrow, shallow channel. Very small drainage area.
		N/A.	

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: This information is sufficient for purposes of this JD.
- Rationale: [NA](#)
- Data sheets prepared by the Corps: [NA](#)
- Photographs: Aerial and Other:
- Corps site visit conducted on: As conducted for previous JDs listed below.
- Previous AJD and PJDs:
- Antecedent Precipitation Tool [*Provide detailed discussion in Section III.B.*]
- USDA/NRCS Soil Survey:
- USFWS NWI Maps:
- USGS Topographic Maps

Other Data Sources Used to Aid in this Determination:

Data Source	
USGS Source	
USDA Source	
USACE Sources	
State/Local/Tribal Sources	
Other Sources	

B. Typical Year Assessment: Field reviews were conducted on December 2, 7 and 8, 2020; and on January 20, 26 and 27 2021. The JD report included precipitation data for two nearby stations as follows:

DATE	Precip (Coal Mountain gage)	Precip (Coal Mountain Loadout gage)	Precip – Avg of Merged Stations
12-1-2020	0	0	1.5
12-2-2020	.01	.02	.01



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12-3-2020	.01	0	.06
12-4-2020	.70	.68	.06
12-5-2020	.02	.01	.6
12-6-2020	0	0	0
12-7-2020	.01	.12	.11
12-8-2020	0	0	.04
1-17-2021	.03	.05	.05
1-18-2021	0	.05	.05
1-19-2021	.06	.07	.04
1-20-2021	0	0	.06
1-21-2021	.13	.16	.3
1-22-2021	0	0	0
1-23-2021	0	0	0
1-24-2021	.09	.10	0
1-25-2021	1.51	1.60	.09
1-26-2021	.32	.32	2.09
1-27-2021	0	0	0

The APTool indicates the JD area received precipitation that was within or above the 30-year average range. The above precipitation data indicates the JD site may have been experiencing precipitation runoff during the site visits.

C. Additional Comments to Support AJD: See attached JD Map titled “Figure 1: Jurisdictional Map” dated 2-1-2021.