



**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): **March 26, 2021**

ORM Number: **LRH-2021-250-KAN**

Associated JDs: --

Review Area Location¹: State: **WV** City: **Kincaid** ; County: **FAYETTE COUNTY**

Coordinates: **38.039944; -81.252028**

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**.
- 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 |
| G2 (trib of Glenco Hollow) | 1810 LF | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year. | Continual flow observed along entire reach. |
| G3 | 577 LF | (a)(2) Intermittent tributary... | |
| G4 | 565 LF | (a)(2) Intermittent tributary... | Continual flow to E/I at Sta. 5+65 |

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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| | | | |
|----------------------------|------------------|----------------------------------|---|
| G5 intermittent reach | 1265 LF | (a)(2) Intermittent tributary... | Note: Flow observed to E/I located at seep (Sta 12+65). |
| G6 intermittent reach | 1600 LF | (a)(2) Intermittent tributary... | 0+00 starts at beltline crossing. Approx 850 ft of G6 lies outside mapped AOI. Observed substrate sorting and continual flow up to groundwater outflow at E/I. No flow updrain. |
| G6.2 | 309 LF | (a)(2) Intermittent tributary... | Continual flow observed to origin of flow at old mine bench. |
| G7 | 282 LF | (a)(2) Intermittent tributary... | Continual flow observed. |
| G8 | 500 LF | (a)(2) Intermittent tributary... | |
| G9 | 349 LF | (a)(2) Intermittent tributary... | |
| G10 | 433 LF | (a)(2) Intermittent tributary... | |
| G11 | 255 LF | (a)(2) Intermittent tributary... | 0+00 located at road, extends uphill 255 ft within AOI. Channel extends downhill from 0+00 and connects to Glenco Hollow. Continual flow observed. |
| G12 | 212 LF | (a)(2) Intermittent tributary... | 0+00 located at road, extends uphill 212 ft within AOI. Channel extends downhill from 0+00 and connects to Glenco Hollow. Continual flow seen. |
| G13 | 222 LF | (a)(2) Intermittent tributary... | 0+00 located at road, goes upstream 222 ft within AOI. Stream channel flows downhill and connects to Glenco Hollow. Continual flow observed. |
| GH intermittent reach | 1993 LF | (a)(2) Intermittent tributary... | Continual flow observed from Glenco Hollow to E/I at sta.19+93. |
| GH.1 intermittent reach | 1230 LF | (a)(2) Intermittent tributary... | Continual flow observed from GH to E/I at sta.12+30. |
| TOTALS | 11,602 LF | | |

| 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 |
| None | NA | N/A. | |

| Adjacent wetlands ((a)(4) waters): | | | |
|---|-------------|--|--|
| (a)(4) Name | (a)(4) Size | (a)(4) Criteria | |
| None | | (a)(4) Wetland abuts an (a)(1)-(a)(3) water. | |



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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 |
| G1 | 910 | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | G1 entirely dry narrow channel. No surface channel connection to Glenco Hollow. |
| G4 ephem reach | 100 | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | E/I located based on lack of flow and physical characteristics of dry channel. No channel indicators of extended flow. |
| G5 ephem reach | 273 | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | Dry channel above seep at E/I. No indicators of extended flow. |
| G6 ephem reach | 64 | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | E/I located based on lack of flow and physical characteristics of dry channel. No indicators of extended flow. |
| GH ephem reach | 202 | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | |
| GH.1 ephem.reach | 225 | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | |
| | | N/A. | |
| TOTALS | 1,774 LF | | |

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 titled “Glenco Hollow Jurisdictional Determination” dtd 3-1-2021, by Navigator Environmental & Technical Services, Inc.](#)

This information is sufficient for purposes of this JD.

- Rationale: [NA](#)
- Data sheets prepared by the Corps: [NA](#)
- Photographs: [Aerial and Other: Agent photos taken Feb 10 and 24, 2021.](#)
- Corps site visit conducted on: As conducted for previous JDs listed below.
- Previous AJD or PJD:
- Antecedent Precipitation Tool [*Provide detailed discussion in Section III.B.*]
- USDA/NRCS Soil Survey:
- USFWS NWI Maps:
- USGS Topographic Maps

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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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: The agent's site delineations were conducted on **February 10 and 24, 2021**. The agent's report shows 0.20 inches of precipitation during the 4 days prior to February 10; and 0.39 inches of precipitation during the 4 days prior to February 24. National Weather Service data indicates daily high temperatures during this time period was generally above 32F. The Antecedent Precipitation Tool (APT) indicates the amount of precipitation received at the site in the 30 days prior to February 24 was within the 30-year average.

C. Additional Comments to Support AJD: See attached JD Map titled "Middle Fork Jurisdictional Determination, March 15, 2021".