



**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): 1/20/2021
 ORM Number: LRH-2019-249-BCR-Casey Creek
 Associated JDs: LRH-2019-249-BCR-Casey Creek (original AJD verified on May 8, 2019)
 Review Area Location¹: State/Territory: WV City: Wharton County/Parish/Borough: Boone
 Center Coordinates of Review Area: Latitude 37.8875 Longitude -81.711667

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)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):within the AJD Boundary			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.	N/A.	N/A.	

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):within the AJD Boundary				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.		linear feet		

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.	acre(s)	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.	acre(s)	N/A.	

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)). ⁴ within the AJD boundary.				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
1st Right UT's Casey Creek	2364	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	These channel segments only provide ephemeral flow, are narrow and shallow, and have large amounts of leaf litter and debris which is indicative of low flow for only short durations. These channel segments do not present any physical or biological indicators of intermittent flow. Refer to the enclosed map entitled "Casey Creek No. 1 Surface Mine – S-5005-05- LRH-2019-00249-LCR- Revised Stream Delineation Map – December 2020.
2nd Right UT's Casey Creek	4467			
3rd Right UT's Casey Creek	2209			
5th Right UT Casey Creek	253			

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 within the AJD boundary.				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination

Excluded waters ((b)(1) – (b)(12)): ⁶ within the AJD boundary.				
Exclusion Name	Exclusion Size		Exclusion ⁷	Rationale for Exclusion Determination
N/A.	N/A.	N/A.	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: [Doss Engineering, Inc.](#), in a letter dated December 8, 2020, requested an AJD for ephemeral streams identified in the report entitled "Preliminary Delineation Report for Rockwell Mining LLC – Casey Creek No. 1 Surface Mine – S-5005-05 -

⁶ 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.

⁷ 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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December 2020” and attached delineation mapping entitled “Casey Creek No. 1 Surface Mine – S-5005-05 – LRH-2019-00249 - LCR – Revised Stream Delineation Map – December 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 streams and wetland locations.

- Data sheets prepared by the Corps: Title(s) and/or date(s).
- Photographs: Other: Photos provided in the December 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: Wharton USGS Quadrangle

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

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 12, 19, 2019 and October 16, 2020. No precipitation was observed during or three days prior to the site investigations. Based on the antecedent precipitation tool, the 30-day rolling total for precipitation was lower than the 30-year normal range during the sampling period.

C. Additional comments to support AJD: Attached “Casey Creek No. 1 Surface Mine – S-5005-05 – LRH-2019-00249 - LCR – Revised Stream Delineation Map – December 2020” has been determined to be accurate.