



**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): 12/16/2020
 ORM Number: LRH-2020-832-OHR
 Associated JDs: N/A
 Review Area Location¹: State/Territory: West Virginia City: West Union
 County/Parish/Borough: Doddridge
 Center Coordinates of Review Area: Latitude 39.303467 Longitude -80.782771

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):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.	N/A.	N/A.	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
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.

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
KLF_Stream01 (EPH)	532	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	It has been determined that 20191115_UNT 1 is an ephemeral stream and meets the definition of “ephemeral” in paragraph 33 CFR 328.3 (c)(3). Reference Section III B of this AJD form for typical year assessments.
KLF_Stream06 (EPH)	94	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	See Rationale for KLF_Stream01 (EPH).

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: [Request for Approved Jurisdictional Determination and “No Permit Required” Letter, Doddridge County, WV \(4 November 2020\)](#)

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 aquatic resource within the geographic boundary of the AJD Review Area.](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial and Other: Figure 1: Site Vicinity Map \(November 2020\); Attachment B: Photo Log \(November 2020\)](#)
- Corps site visit(s) conducted on: [N/A](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)
- Antecedent Precipitation Tool: [*provide detailed discussion in Section III.B.*](#)
- USDA NRCS Soil Survey: [NRCS Soil Types Map accessed 14 December 2020](#)
- USFWS NWI maps: [NWI Mapper accessed 14 December 2020; Huntington District Regulatory Viewer](#)
- USGS topographic maps: [National Hydrography Dataset \(NHD\) accessed 14 December 2020; Huntington District Regulatory Viewer](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Other than the USGS map(s) listed above, no other USGS sources were used.
USDA Sources	Other than the Web Soil Survey Report listed above, no other USDA sources were used.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.

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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Data Source (select)	Name and/or date and other relevant information
Other Sources	N/A.

- 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, 29 September 2020, with a corresponding APT report, was included in the evaluation for the excluded ephemeral streams, KLF_Stream01 (EPH) and KLF_Stream06 (EPH), listed in Section II D. According to the APT report for 29 September 2020, normal conditions were observed during the dry season with a Palmer Drought Severity Index (PDSI) Value of 1.36 (mild wetness). The antecedent precipitation condition with a score of 11 is considered “normal” for that point in time. The periodic range used for this typical assessment was the three (3) 30-day periods preceding the observation date and the nearest available weather stations (W UNION 2, WEST UNION 2.9 SE, WEST UNION 5.9 NE, WEST UNION 8.2 NE, MIDDLEBOURNE 3 ESE) within the Upper Ohio River watershed in the Hydrologic Unit Code (HUC) 05030201. This geographic range is appropriate because it is the same 8-digit HUC as the aquatic resource within the geographic boundary of the AJD Review Area.
- C. Additional comments to support AJD:** 33 CFR 328.3(b)(3) - In September 2020, during normal conditions of the dry season, no flow was observed in KLF_Stream01 (EPH) or KLF_Stream06 (EPH), supporting the fact that the ephemeral streams do not meet the flow requirements of a jurisdictional tributary. It has been determined that the ephemeral streams listed in Section II D above exhibits ephemeral flow, are not a water of the United States per 33 CFR 328.3(b)(3), and are not subject to regulation under Section 404.