



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): 5/19/2021

ORM Number: LRH-2019-363-OHR-SWV-JJP-001

Associated JDs: N/A

Review Area Location¹:

State/Territory: WV City: Salem County/Parish/Borough: Doddridge County

Center Coordinates of Review Area: Latitude 39.33595 Longitude -80.61810

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 |
|-------------------------------------|-------------|--|--|
| 2021 Update SWV-JJP-001 Ext 1 | 391 feet | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | 2021 Update_SWV-JJP-001 Ext 1 contributes indirect intermittent flow to the Ohio River, a downstream (a)(1) traditional navigable water, in a typical year and is a water of the United States per 33 CFR 328.3(a)(2). Reference Section III B of this AJD form for typical year assessments. Therefore, 2021 Update_SWV-JJP-001 Ext 1 is subject to regulation under Section 404. Approximately 22 linear feet (lf) of 2021 Update_SWV-JJP-001 Ext 1 within the review area is conveyed off-site towards Davis Creek through Culvert 1. |

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 and 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 independent 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.

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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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 |
|-------------|-------------|-----------------|------------------------------------|
| | | | |

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

| Exclusion Name | Exclusion Size | Exclusion ⁵ | Rationale for Exclusion Determination |
|-------------------------|----------------|--|--|
| 2021 Update_SWV-JJP-001 | 521 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | 2021 Update_SWV-JJP-001 exhibits ephemeral flow, meeting the definition of “ephemeral” in 33 CFR 328.3(c), and is not a water of the United States per 33 CFR 328.3(b)(3). Reference Section III B of this AJD form for typical year assessments. Therefore, 2021 Update_SWV-JJP-001 is not subject to regulation under Section 404. |

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: [Wetland Delineation and Stream Identification Report Addendum Trans-Allegheny Interstate Line Company Flint Run Substation Project Doddridge, County, West Virginia \(April 2021\)](#).
This information *is* sufficient for purposes of this AJD.
Rationale: *N/A or describe rationale for insufficiency (including partial insufficiency)*.
- Data sheets prepared by the Corps: *N/A*.
- Photographs: [Appendix A: Water Body Photographs \(October 2018/April 2021\)](#).
- 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: [Figure 2: Resource Location Map \(April 2021-soil types are integrated\)](#).
- USFWS NWI maps: [Figure 2: Resource Location Map \(April 2021-NWI is integrated\)](#).
- USGS topographic maps: [Figure 1: Project Location Map \(April 2021\)](#).

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 listed above, no other USGS sources were used. |
| USDA Sources | Other than the USDA NRCS Soil Survey map listed above, no other USDA NRCS sources were used. |
| NOAA Sources | <i>N/A</i> . |
| USACE Sources | <i>N/A</i> . |

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| | |
|----------------------------|------|
| State/Local/Tribal Sources | N/A. |
| 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 periodic range (seasonally or annually) for a specific geographic region where the aquatic resource occurs. Two (2) point-in-time data sources, 8 October 2018 and 9 May 2019, with corresponding Antecedent Precipitation Tool (APT) reports, were included in the evaluation for the aquatic feature described in Section II C (2021 Update_SWV-JJP-001 Ext 1) and for the excluded ephemeral stream in Section II D (2021 Update_SWV-JJP-001) above. As mentioned, one (1) point-in-time data source was taken for the AJD review area on 8 October 2018. According to the APT report for 8 October 2018, normal conditions were present during the wet season with a Palmer Drought Index (PDSI) value of 5.1 demonstrating extreme wetness and an antecedent precipitation condition of 14 (normal conditions). According to the information provided, intermittent flow was observed 2021 Updated_SWV-JJP-001 Ext 1. Minor flow to no flow was observed in 2021 Update_SWV-JJP-001 during the extremely wet conditions of the wet season. Additionally, another point-in-time data source was taken for the AJD review area on 9 May 2019. According to the APT report for 9 May 2019, normal conditions were present during the wet season with a PDSI value of -0.67 demonstrating incipient drought and an antecedent precipitation condition of 14 (normal conditions). According to the information provided, limited intermittent flow was observed 2021 Updated_SWV-JJP-001 Ext 1. Minor flow to no flow was observed in 2021 Update_SWV-JJP-001 during the incipient drought conditions of the wet season. The aforementioned aquatic features listed in Section II C above, based on the point-in-time data for October 2018 and May 2019, demonstrate the requirements of a jurisdictional tributary with intermittent flow. Additionally, during extreme wet conditions of the normal wet season, minor flow to no flow was observed in 2021 Update_SWV-JJP-001. The seasonal, precipitation based-flow observed in 2021 Update_SWV-JJP-001 indicates the ephemeral stream does not meet the flow requirements of a jurisdictional tributary. 2021 Update_SWV-JJP-001 Ext 1 demonstrated intermittent flow during both point-in-time referencing, contributing flow to a downstream (a)(2) water in a typical year. The periodic range used for these typical year assessments was the three (3) 30-day periods preceding each observation date at the four (4) nearest available weather stations, ranging between 8 and 16 miles away from the AJD Review Area, within the Ohio River watershed in Hydrologic Unit Code (HUC)-8 #05030201. This geographic range is appropriate because it is the same 8-digit HUC as the aquatic resources within the geographic boundary of the AJD Review Area.

C. Additional comments to support AJD:

33 CFR 328.3(a)(2) – During normal conditions of the wet season, with a PDSI of extreme wetness (October 2018), the 2021 Updated_SWV-JJP-001 Ext 1 demonstrated regular intermittent flow, meeting the requirements of a jurisdictional tributary, contributing flow, indirectly to an (a)(1) water, the

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