



**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): 1/6/2021  
 ORM Number: LRH-2020-885-GUY-Sugar Run  
 Associated JDs: N/A or ORM numbers and identifiers (e.g. HQS-2020-00001-MSW-MITSITE).  
 Review Area Location<sup>1</sup>: State/Territory: WV City: New Richmond County/Parish/Borough: Wyoming  
 Center Coordinates of Review Area: Latitude 37.5825 Longitude -81.4876

**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)<sup>2</sup>**

§ 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): <sup>3</sup>			
(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
Hollow D – Sugar Run	7424	linear feet linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.  The stream is a direct perennial tributary to the Guyandotte River, a navigable water of the U.S. The stream was observed to have flowing water during the September 28 and October 2, 2020 site visits. Stream flow was driven by surface and groundwater inputs. Refer to the enclosed map entitled “Sugar Run No.1 – Jurisdictional Determination Map – October 2020.

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

<sup>2</sup> 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.

<sup>3</sup> 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
Hollow D – Sugar Run	1685		(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The stream is a direct intermittent tributary of the Guyandotte River, a navigable water of the U.S. The stream was observed to have flowing water during the September 28 and October 2, 2020 site visits. Stream flow was driven by surface and groundwater inputs. Refer to the enclosed map entitled “Sugar Run No. 1 Jurisdictional Map - October 2020.

Tributaries ((a)(2) waters):within the AJD Boundary				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Hollow E Hollow I Hollow M Hollow J Hollow O – UNTs Sugar Run	1790 615 175 4393 155	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The streams are intermittent tributaries of Sugar Branch and Jims Branch of the Guyandotte River, a navigable water of the U.S. The streams were observed to have flowing water during the September 28 and October 2, 2020 site visits. Stream flow was driven by surface and groundwater inputs. Refer to the enclosed map entitled “Sugar Run No. 1 Jurisdictional Map - October 2020.

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**



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup> within the AJD boundary.				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Hollow F, Hollow I, Hollow U, Hollow M Hollow J Hollow N Hollow P	1500 2377 957 2448 288 200 2328	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 channel beds that have large amounts of leaf litter and debris which is indicative of low flow for short durations. These channel segments do not present any evidence of physical or biological indicators of intermittent flow. No channel flow was observed during the September 28 and October 2, 2020 the site investigation. Refer to the enclosed map entitled "Sugar Run No. 1 Jurisdictional Map - October 2020.

Excluded waters ((b)(1) – (b)(12)): <sup>6</sup> within the AJD boundary.				
Exclusion Name	Exclusion Size		Exclusion <sup>7</sup>	Rationale for Exclusion Determination
N/A.	N/A.	N/A.	N/A.	N/A.

<sup>4</sup> 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.

<sup>5</sup> 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.

<sup>6</sup> 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.

<sup>7</sup> 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)). <sup>6</sup> within the AJD boundary.			
Exclusion Name	Exclusion Size	Exclusion <sup>7</sup>	Rationale for Exclusion Determination

**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: [True Line Inc., in a letter dated November 13, 2020, requested an AJD for stream segments identified in the report entitled “Preliminary Jurisdictional Determination Request for the Sugar Run No. 1 Project Area - dated November 6, 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 stream locations.](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Other: Photos provided in the November 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: [New Richmond USGS Quadrangle](#)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS/WBD/NHD data/maps</a>	<a href="#">NHD map accessed through LRH Regulatory GIS Viewers</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">N/A</a>



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- 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 September 28 and October 2, 2020. Information provided by the applicant indicated there was rainfall during the September 28 and October 2 site visits, (1/2 –inch rainfall three days preceding the site visit and 1-inch of rainfall during the three days between the two site visits). 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 mapping entitled “Sugar Run No. 1 Jurisdictional Map - October 2020” has determined to be accurate.