



**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): 3/8/2021  
 ORM Number: NAO-2020-01607  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: Virginia City: Hardy County/Parish/Borough: Franklin  
 Center Coordinates of Review Area: Latitude 37.113899 Longitude -79.719291

**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 or describe rationale.
- 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):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Jack O Lantern Creek	255	linear feet	(A)(2) water that flows to Gills Creek (a)(2) water, that flows to the Roanoke River (a)(1) water.
Stream 2	309	linear feet	(A)(2) water that flows to Jack O Lantern Creek (a)(2) water, to Gills Creek (a)(2) water, that flows to the Roanoke River (a)(1) water.

<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):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
		surface water flow directly or indirectly to an (a)(1) water in a typical year.	
Stream 3	363	linear feet (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	(A)(2) water that flows to Jack O Lantern Creek (a)(2) water, to Gills Creek (a)(2) water, that flows to the Roanoke River (a)(1) water.
Stream 4	263	linear feet (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	(A)(2) water that flows to Jack O Lantern Creek (a)(2) water, to Gills Creek (a)(2) water, that flows to the Roanoke River (a)(1) water.
Stream 5	917	linear feet (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	(A)(2) water that flows to Jack O Lantern Creek (a)(2) water, to Gills Creek (a)(2) water, that flows to the Roanoke River (a)(1) water.

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
Wetland 1	0.012	acre(s) (a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland directly abutting (a)(2) water.
Wetland 2	0.006	Acre (a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland directly abutting (a)(2) water.
Wetland 3	0.066	Acre (a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland directly abutting (a)(2) water.



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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland 2a	0.085	Acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Continuation of wetland directly abutting (a)(2) water.
Wetland 3a	0.032	acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Continuation of wetland directly abutting (a)(2) water.

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Stormwater Channel 1	109 lf		(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Stormwater channel conveys overflow from an existing stormwater retention basin during heavy precipitation. Stormwater basin is located in uplands.
Stormwater Channel 2	278	linear feet	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Stormwater channel conveys overflow from an existing stormwater retention basin during heavy precipitation. Stormwater basin is located in uplands.

**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: [Jurisdictional Determination Request Westlake Multi-Use Trail Hardy, Virginia. August 2020, Revised December 2020](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).

<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.



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- Photographs: [Aerial and Other](#): Site photos included in JD request dated August 2020.
- Corps site visit(s) conducted on: [1-DEC-2020](#)
- 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: [NRCS Franklin County Soils Map](#)
- USFWS NWI maps: [27-FEB-2020](#)
- USGS topographic maps: [USGS 7.5' Quad Map Moneta SW, VA](#)

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

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">N/A.</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>

**B. Typical year assessment(s):** [The APT tool confirmed that the delination was performed during normal hydrologic conditions on January 27, 2020. The conditions were wetter than normal during the confirmation site visit on December 1, 2020](#)

**C. Additional comments to support AJD:** [N/A](#)