



**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): 11/12/2020

ORM Number: LRP-2011-62

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: West Virginia City: Mannington County/Parish/Borough: Marion County

Center Coordinates of Review Area: Latitude 39.547712 Longitude -80.406051

**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
Channel 1	332	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.

<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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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.	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.	N/A.

**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
Channel 1C	40	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Non-jurisdictional by rule.
Channel 1D	39	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Non-jurisdictional by rule.
Channel 1E	59	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Non-jurisdictional by rule.
Channel 1F	100	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Non-jurisdictional by rule.

**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 Reverification, Corps ID # 2011.62, Dents Run Landfill Stage 2 Expansion Plan, Marion County, WV, prepared for Murray American Energy, Inc. by Alliance Consulting, Inc. dated April 9, 2020](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Other: Photos 1 through 15 in Appendix C of Jurisdictional Determination Reverification, Corps ID #2011.62, Dents Run Landfill Stage 2 Expansion Plan](#)

<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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- Corps site visit(s) conducted on: [N/A](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [2011-62 dated September 28, 2011](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Web Soil Survey Custom Soil Resource Report for Marion and Monongalia Counties, West Virginia, generated April 8, 2020](#)
- USFWS NWI maps: [Wetlands Mapper, accessed November 12, 2020](#)
- USGS topographic maps: [Glover Gap, WV 7.5 minute 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 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 Corps ran the Antecedent Precipitation Tool for the project location and sampling date in March 2020; the results indicated climactic conditions were normal at the time of sampling. The periodic range of the assessments was the three 30-day periods preceding the observation date, and the assessment did not deviate from the 30th to 70th percentile of precipitation totals.
- C. Additional comments to support AJD:** The previous jurisdictional determination completed in 2011 determined that Channel 1 was intermittent and jurisdictional, and Channels 1C, 1D, 1E and 1F were ephemeral and non-jurisdictional. All drainage from the site is conveyed to a stormwater basin which either discharges to Dents Run (tributary to Buffalo Creek which is tributary to the Monongahela River), or is diverted to the water treatment facility on-site. The water treatment facility outflows to an impoundment of Hibbs Run, located within the Dents Run Wildlife Management Area. Hibbs Run flows out of this impoundment and is tributary to Dents Run. In both discharge scenarios flow from Channel 1 is conveyed indirectly downstream to the Monongahela River, an (a)(1) water, in a typical year. The Corps has followed the JD guidance as enumerated within the “Interim Approved Jurisdictional Determination Form User Manual Navigable Waters Protection Rule” dated July 29, 2020 and other applicable guidance.