



**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): 6/2/2021

ORM Number: LRH-2021-454-LMR

Associated JDs: N/A

Review Area Location¹: State/Territory: Ohio City: Miami Township County/Parish/Borough: Clermont

Center Coordinates of Review Area: Latitude 39.2618 Longitude -84.2424

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. | 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. | 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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| Tributaries ((a)(2) waters): | | | | |
|------------------------------|-------------|-------------|----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a)(2) Name | (a)(2) Size | | (a)(2) Criteria | Rationale for (a)(2) Determination |
| Stream 1 | 405 | linear feet | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.. | Stream 1 (Intermittent – 405 linear feet) originates from an off-site broken field tile and flows on and off-site along the southwestern boundary into Bares Run and indirectly into the Little Miami River, a navigable water of the United States and an (a)(1) tributary. Through this path, this stream contributes intermittent surface water flow directly to the Little Miami River, an (a)(1) tributary, in a typical year. Therefore, Stream 1 is a jurisdictional waters of the United States per 33 CFR 328.3(a)(2).. |
| Stream 4I | 405 | linear feet | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year. | Stream 4I (Intermittent – 405 linear feet) is located in the northwestern portion of the Site and originates just downgradient of Swale 5 and flows offsite to the northwest and indirectly into the Little Miami River, a navigable water of the United States and an (a)(1) tributary. Through this path, this section of Stream 4I contributes intermittent surface water flow directly to the Little Miami River, an (a)(1) tributary, in a typical year. Therefore, Stream 4I is a jurisdictional waters of the United States per 33 CFR 328.3(a)(2). |
| Stream 6 | 423 | linear feet | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.. | Stream 6 (Intermittent – 423 linear feet) originates within in an upland area in the northwestern portion of the Site and flows north into the intermittent reach of Stream 4 and indirectly into the Little Miami River, a navigable water of the United States and an (a)(1) tributary. Through this path, this section of Stream 6 contributes intermittent surface water flow directly to the Little Miami River, an (a)(1) tributary, in a typical year. Therefore, Stream 6 is a jurisdictional waters of the United States per 33 CFR 328.3(a)(2). |
| Bares Run | 1,036 | linear feet | (a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year. | Bares Run (Perennial – 1,036 linear feet) is located in the southwest portion of the site and flows indirectly into the Little Miami River, a navigable water of the United States and an (a)(1) tributary. Through this path, this section of Bares Run contributes perennial surface water flow directly to the Little Miami River, an (a)(1) tributary, in a typical year. Therefore, Bares Run is a jurisdictional waters of the United States per 33 CFR 328.3(a)(2). |

| 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. |



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| | | | |
|------------------------------------|-------------|-----------------|------------------------------------|
| 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. |

D. Excluded Waters or Features

| Excluded waters ((b)(1) – (b)(12)): ⁴ | | | | |
|--------------------------------------------------|----------------|---------|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Exclusion Name | Exclusion Size | | Exclusion ⁵ | Rationale for Exclusion Determination |
| Wetland A | 0.02 | acre(s) | (b)(1) Non-adjacent wetland. | Wetland A (0.02 acre) does not abut a water identified in 33 CFR 328.3(a)(1), (2), or (3), are not inundated by flooding from a water identified in 33 CFR 328.3(a)(1), (2), or (3) in a typical year, is not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature, is are not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by an artificial dike, barrier, or similar artificial structure. Therefore, Wetland A – PEM is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1). |
| Wetland B | 0.01 | acre(s) | (b)(1) Non-adjacent wetland. | Wetland B (0.01 acre) does not abut a water identified in 33 CFR 328.3(a)(1), (2), or (3), are not inundated by flooding from a water identified in 33 CFR 328.3(a)(1), (2), or (3) in a typical year, is not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature, is are not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by an artificial dike, barrier, or similar artificial structure. Therefore, Wetland B – PEM is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1). |
| Wetland C | 0.03 | acre(s) | (b)(1) Non-adjacent wetland. | Wetland C (0.03 acre) does not abut a water identified in 33 CFR 328.3(a)(1), (2), or (3), are not inundated by flooding from a water identified in 33 CFR 328.3(a)(1), (2), or (3) in a typical year, is not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature, is are not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by an artificial dike, barrier, or similar |

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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| Excluded waters ((b)(1) – (b)(12)): ⁴ | | | | |
|--------------------------------------------------|----------------|---------|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Exclusion Name | Exclusion Size | | Exclusion ⁵ | Rationale for Exclusion Determination |
| | | | | artificial structure. Therefore, Wetland C – PEM is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1). |
| Wetland D | 0.50 | acre(s) | (b)(1) Non-adjacent wetland. | Wetland D (0.50 acre) does not abut a water identified in 33 CFR 328.3(a)(1), (2), or (3), are not inundated by flooding from a water identified in 33 CFR 328.3(a)(1), (2), or (3) in a typical year, is not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature, is are not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by an artificial dike, barrier, or similar artificial structure. Therefore, Wetland D – PEM is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1). |
| Wetland E | 0.01 | acre(s) | (b)(1) Non-adjacent wetland. | Wetland E (0.01 acre) does not abut a water identified in 33 CFR 328.3(a)(1), (2), or (3), are not inundated by flooding from a water identified in 33 CFR 328.3(a)(1), (2), or (3) in a typical year, is not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature, is are not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by an artificial dike, barrier, or similar artificial structure. Therefore, Wetland D – PEM is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1). |
| Wetland F | 0.02 | acre(s) | (b)(1) Non-adjacent wetland. | Wetland F (0.02 acre) does not abut a water identified in 33 CFR 328.3(a)(1), (2), or (3), are not inundated by flooding from a water identified in 33 CFR 328.3(a)(1), (2), or (3) in a typical year, is not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature, is are not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by an artificial dike, barrier, or similar artificial structure. Therefore, Wetland F – PEM is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1). |
| Wetland G | 0.10 | acre(s) | (b)(1) Non-adjacent wetland. | Wetland G (0.10 acre) does not abut a water identified in 33 CFR 328.3(a)(1), (2), or (3), are not inundated by flooding from a water identified in 33 CFR 328.3(a)(1), (2), or (3) in a typical year, is not physically separated from a water |



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| Excluded waters ((b)(1) – (b)(12)): ⁴ | | | | |
|--------------------------------------------------|----------------|---------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Exclusion Name | Exclusion Size | | Exclusion ⁵ | Rationale for Exclusion Determination |
| | | | | identified in 33 CFR 328.3(a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature, is are not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by an artificial dike, barrier, or similar artificial structure. Therefore, Wetland G – PEM is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1). |
| Wetland H | 0.03 | acre(s) | (b)(1) Non-adjacent wetland. | Wetland H (0.03 acre) does not abut a water identified in 33 CFR 328.3(a)(1), (2), or (3), are not inundated by flooding from a water identified in 33 CFR 328.3(a)(1), (2), or (3) in a typical year, is not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature, is are not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by an artificial dike, barrier, or similar artificial structure. Therefore, Wetland H – PEM is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1). |
| Open Water 1 | 1.21 | acre(s) | (b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6). | Open Water 1 (1.21 acre) is a man-made open water feature. Based on aerial imagery, Open Water 1 was constructed in uplands sometime between 1938 and 1968. Additionally, Pond Open Water 1 is not an impoundment of a jurisdictional water and is not considered a water of the United States per 33 CFR 328.3(b)(8). |
| Open Water 2 | 0.57 | acre(s) | (b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6). | Open Water 2 (0.57 acre) is a man-made open water feature. Based on aerial imagery, Open Water 1 was constructed in uplands sometime between 1938 and 1968. Additionally, Pond Open Water 2 is not an impoundment of a jurisdictional water and is not considered a water of the United States per 33 CFR 328.3(b)(8). |



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| Excluded waters ((b)(1) – (b)(12)): ⁴ | | | | |
|--------------------------------------------------|----------------|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Exclusion Name | Exclusion Size | | Exclusion ⁵ | Rationale for Exclusion Determination |
| Treatment Wetland | 0.03 | acre(s) | (b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff. | Treatment Wetland (0.03 acre) is an emergent wetland that has formed in a stormwater control feature associated with the Grailville Retreat Center. Based on the information provided by the applicant's agent, this feature is associated with a stormwater control feature and is not considered a water of the United States per 33 CFR 328.3(b)(10). |
| Ditch 1 | 171 | linear feet | (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1). | Ditch 1 (171 linear feet) is a linear feature that was constructed between 1950-1968 to provide drainage for the surrounding agricultural fields. Ditch 1 is not a relocated tributary, was not constructed in a tributary, and is not constructed in an adjacent wetland. Therefore Ditch 1 is not considered a water of the United States per 33 CFR 328.3(b)(5). |
| Erosional Feature | 423 | linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | Erosional Feature (423 linear feet) is a linear feature that is located in the central portion of the site and exhibits no ordinary high water mark, defined bed and banks, or wetland characteristics. Therefore the Erosional Feature is not considered a water of the United States per 33 CFR 328.3(b)(3). |
| Swale 1 | 200 | linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | Swale 1 are erosional features in the landscape that exhibit no ordinary high water mark, defined bed and banks, or wetland characteristics. Therefore Swales 1 is not considered a water of the United States per 33 CFR 328.3(b)(3). |
| Swale 2 | 129 | linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | Swale 2 are erosional features in the landscape that exhibit no ordinary high water mark, defined bed and banks, or wetland characteristics. Therefore Swale 2 is not considered a water of the United States per 33 CFR 328.3(b)(3). |
| Swale 3 | 227 | linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | Swale 3 are erosional features in the landscape that exhibit no ordinary high water mark, defined bed and banks, or wetland characteristics. Therefore Swale 3 is not considered a water of the United States per 33 CFR 328.3(b)(3). |



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| Excluded waters ((b)(1) – (b)(12)): ⁴ | | | | |
|--------------------------------------------------|----------------|-------------|---------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Exclusion Name | Exclusion Size | | Exclusion ⁵ | Rationale for Exclusion Determination |
| Swale 4 | 321 | linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | Swale 4 are erosional features in the landscape that exhibit no ordinary high water mark, defined bed and banks, or wetland characteristics. Therefore Swale 4 is not considered a water of the United States per 33 CFR 328.3(b)(3). |
| Swale 5 | 59 | linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | Swale 5 are erosional features in the landscape that exhibit no ordinary high water mark, defined bed and banks, or wetland characteristics. Therefore Swale 5 is not considered a water of the United States per 33 CFR 328.3(b)(3). |
| Swale 6 | 115 | linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | Swale 6 are erosional features in the landscape that exhibit no ordinary high water mark, defined bed and banks, or wetland characteristics. Therefore Swale 6 is not considered a water of the United States per 33 CFR 328.3(b)(3). |
| Swale 7 | 104 | linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | Swale 7 are erosional features in the landscape that exhibit no ordinary high water mark, defined bed and banks, or wetland characteristics. Therefore Swale 7 is not considered a water of the United States per 33 CFR 328.3(b)(3). |

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: [The agent, O'Brien & Gere/Ramboll, prepared the report titled Jurisdictional Waters Delineation for the Grail Property, dated 3 May 2021 on behalf of Drees Homes, LLC \(JD Report, May 2021\)](#)

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: [Aerial and Other: Aerial Photographs, Site Photographs, and Site Features Map \(JD Report, December 2020\)](#)

Corps site visit(s) conducted on: [Date\(s\)](#).

Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [Web Soil Survey for Clermont County, Ohio \(JD Report, May 2021\)](#)

USFWS NWI maps: [USFWS NWI \(USFWS 2016\) \(JD Report, May 2021\)](#)

USGS topographic maps: [South Lebanon, Ohio \(JD Report, Report 2021\)](#)

Other data sources used to aid in this determination:



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| Data Source (select) | Name and/or date and other relevant information |
|--------------------------------------------|---------------------------------------------------------|
| USGS Sources | N/A |
| USDA Sources | N/A |
| NOAA Sources | N/A. |
| CorpsMap ORM Map Layers | N/A |
| State/Local/Tribal Sources | N/A. |
| Other Sources | Stream Forms (Appendix F) of the report |

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 dated 3 May 2021, with a corresponding antecedent precipitation tool (APT) report, is included in the evaluation for the excluded features listed in Section II D. According to the APT report for 3 May 2021, normal conditions were present within the site with an antecedent precipitation condition score of 13 observed during the WebWIMP wet season with a Palmer Drought Severity Index Value of Normal wetness. The 30-day rolling total for precipitation was within the normal rolling thirty year period.

C. Additional comments to support AJD: