



**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): 2/17/2021

ORM Number: LRH-2019-50-OLR (2021)

Associated JDs: N/A

Review Area Location¹: State/Territory: Ohio City: Liberty Township County/Parish/Borough: Delaware

Center Coordinates of Review Area: Latitude 40.1913 Longitude -83.0877

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)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
Stream 1 (Wild Cat Run)	1,107 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 1 is a perennial tributary depicted as Wild Cat Run on the USGS topographic map, the NWI map, and the NHD. Stream 1 provides perennial flow outside of the JD review area indirectly to the Olentangy River, an (a)(1) water, at a location outside of the area of interest (AOI), in a typical year (reference Section III B of this AJD form).

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 2	1,009	Linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 2 is an intermittent tributary to Wild Cat Run offsite, an (a)(2) water, an indirect tributary to the Olentangy River, an (a)(1) navigable water, at a location outside of the AOI, in a typical year (reference Section III B of this AJD form).
Stream 4	37	Linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 4 is an intermittent tributary to Stream 1 onsite, an (a)(2) water, an indirect tributary to the Olentangy River, an (a)(1) navigable water, at a location outside of the area of interest (AOI), in a typical year (reference Section III B of this AJD form).

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)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland A	0.03	acre(s)	(b)(1) Non-adjacent wetland.	Wetland A is a non-jurisdictional wetland under 33 CFR 328.3(b)(1). Reference Section III B of this AJD form for typical year assessments.
Wetland B	0.06	acre(s)	(b)(1) Non-adjacent wetland.	Wetland B is a non-jurisdictional wetland under 33 CFR 328.3(b)(1). Reference Section III B of this AJD form for typical year assessments.
Wetland C	0.05	acre(s)	(b)(1) Non-adjacent wetland.	Wetland C is a non-jurisdictional wetland under 33 CFR 328.3(b)(1). Reference Section III B of this AJD form for typical year assessments.

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
Wetland D	0.97	acre(s)	(b)(1) Non-adjacent wetland.	Wetland D is a non-jurisdictional wetland under 33 CFR 328.3(b)(1). Reference Section III B of this AJD form for typical year assessments.
Wetland E	0.43	acre(s)	(b)(1) Non-adjacent wetland.	Wetland E is a non-jurisdictional wetland under 33 CFR 328.3(b)(1). Reference Section III B of this AJD form for typical year assessments.
Wetland F	0.04	acre(s)	(b)(1) Non-adjacent wetland.	Wetland F is a non-jurisdictional wetland under 33 CFR 328.3(b)(1). Reference Section III B of this AJD form for typical year assessments.
Wetland G	0.07	acre(s)	(b)(1) Non-adjacent wetland.	Wetland G is a non-jurisdictional wetland under 33 CFR 328.3(b)(1). Reference Section III B of this AJD form for typical year assessments.
Wetland H	0.30	acre(s)	(b)(1) Non-adjacent wetland.	Wetland H is a non-jurisdictional wetland under 33 CFR 328.3(b)(1). Reference Section III B of this AJD form for typical year assessments.
Wetland I	1.34	acre(s)	(b)(1) Non-adjacent wetland.	Wetland I is a non-jurisdictional wetland under 33 CFR 328.3(b)(1). Reference Section III B of this AJD form for typical year assessments.
Wetland J	0.02	acre(s)	(b)(1) Non-adjacent wetland.	Wetland J is a non-jurisdictional wetland under 33 CFR 328.3(b)(1). Reference Section III B of this AJD form for typical year assessments.
Wetland K	0.24	acre(s)	(b)(1) Non-adjacent wetland.	Wetland K is a non-jurisdictional wetland under 33 CFR 328.3(b)(1). Reference Section III B of this AJD form for typical year assessments.
Wetland L	0.20	acre(s)	(b)(1) Non-adjacent wetland.	Wetland L is a non-jurisdictional wetland under 33 CFR 328.3(b)(1). Reference Section III B of this AJD form for typical year assessments.
Stream 3	37	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 3 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments.
Stream 5	289	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 5 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments.

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: [Approved Jurisdictional Determination Request Home Road, Liberty Township, Delaware County, Ohio \(8 January 2021\)](#)

This information is sufficient for purposes of this AJD.



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Rationale: The information provided by or on behalf of the applicant accurately reflects the district's conclusions on the AJD.

- Data sheets prepared by the Corps: Title(s) and/or date(s).
- Photographs: Aerial and Other: Site Photographs (Appendix A) dated 16 October 2018 and 9 November 2018
- Corps site visit(s) conducted on: Date(s).
- Previous Jurisdictional Determinations (AJDs or PJDs): LRH-2019-50-OLR (2019 PJD/AJD; dated 17 January 2019)
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Soils Information (Table 1), January 2021
- USFWS NWI maps: Background Environmental Data Map (Figure 2), January 2021
- USGS topographic maps: Site Location Map (Figure 1); January 2021

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
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 period range (seasonally or annually) for a specific geographic region where the aquatic resource occurs. Two (2) point-in-time data sources, 16 October 2018 and 9 November 2018, with a corresponding APT report, were included in the evaluation for the features listed above, as applicable. According to the APT report for 16 October 2018, drier than normal conditions were observed during the wet season with a PSDI Value of 2.88 (moderate wetness). The antecedent precipitation condition is considered "normal" for that point in time. According to the APT report for 9 November 2018, normal conditions were observed during the wet season with a PSDI Value of 2.19 (moderate wetness). The antecedent precipitation condition is considered "wetter than normal" for that point in time. In October 2018, during drier than normal conditions of the wet season, little to no flow was observed in Streams 3 and 5, supporting the fact that the ephemeral streams do not meet the flow requirements of a jurisdictional tributary. Additionally, during the re-evaluation in November 2018, during normal conditions in the wet season, little to no flow was observed in Streams 3 and 5, supporting the fact that the ephemeral streams do not meet the flow requirements of a jurisdictional tributary. It has been determined that the ephemeral streams listed in Section II D, above, exhibit ephemeral flow, and are not waters of the United States per 33 CFR 328.3(b)(3), and are not subject to regulation under Section 404.

Additionally, during both October 2018 and November 2018, regular/constant was observed in the perennial and intermittent streams in listed above in Section II C (Stream 1, Stream 2, and Stream 4). It has been determined that the perennial and intermittent streams listed in Section II C, above, exhibit perennial flow, and are waters of the United States per 33 CFR 328.3(a)(2) and are subject to regulation under Section 404.



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Additionally, it has been determined that the wetlands listed in Section II D, above, do 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), (3) in a typical year, are 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, and 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, Wetlands A, B, C, D, E, F, G, H, I, J, K and L are not jurisdictional waters of the United States per 33 CFR 328.3(b)(1).

C. Additional comments to support AJD:

Wetland A	40.1898	-83.0887	PFO	0.03 acre	None; Excluded under (b)(1)
Wetland B	40.1882	-83.0883	PFO	0.06 acre	None; Excluded under (b)(1)
Wetland C	40.1877	-83.0894	PFO	0.95 acre	None; Excluded under (b)(1)
Wetland D	40.1868	-83.0879	PFO	0.97 acre	None; Excluded under (b)(1)
Wetland E	40.1858	-83.0886	PFO	0.43 acre	None; Excluded under (b)(1)
Wetland F	40.1851	-83.0877	PFO	0.04 acre	None; Excluded under (b)(1)
Wetland G	40.1847	-83.0884	PFO/PSS	0.37 acre (PSS)	None; Excluded under (b)(1)
Wetland H	40.1837	-83.0870	PFO	0.02 acre	None; Excluded under (b)(1)
Wetland I	40.1845	-83.0881	PFO	1.34 acre	None; Excluded under (b)(1)
Wetland J	40.1909	-83.0893	PEM	0.02 acre	None; Excluded under (b)(1)
Wetland K	40.1939	-83.0874	PEM	0.24 acre	None; Excluded under (b)(1)
Wetland L	40.1937	-83.0869	PEM	0.20 acre	None; Excluded under (b)(1)

Stream 1 40.1913 -83.0877 Perennial 1,107 linear feet (a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.

Stream 2 40.1912 -83.0866 Intermittent 1,009 linear feet (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.

Stream 3 40.1886 -83.0875 Ephemeral 37 linear feet None; Excluded under (b)(3)

Stream 4 40.1912 -83.0894 Intermittent 37 linear feet (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.

Stream 5 40.1912 -83.0866 Ephemeral 289 linear feet
None; Excluded under (b)(3)