



®

## Regulatory Program



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### **INTERIM APPROVED JURISDICTIONAL DETERMINATION FORM**

#### **U.S. Army Corps of Engineers**

This form should be completed by following the instructions provided in the Interim Approved Jurisdictional Determination Form User Manual.

### **SECTION I: BACKGROUND INFORMATION**

**A. COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (AJD):** 19 September 2018

**B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ):** LRH-2018-302-TUS-UNT to Nimisila Creek

#### **C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State:OH County/parish/borough: Stark City: Jackson Township

Center coordinates of site (lat/long in degree decimal format): Lat. 40.890381, Long. -81.479818.

Map(s)/diagram(s) of review area (including map identifying single point of entry (SPOE) watershed and/or potential jurisdictional areas where applicable) is/are:  attached  in report/map titled .

Other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different jurisdictional determination (JD) form. List JD form ID numbers (e.g., HQ-2015-00001-SMJ-1): .

#### **D. REVIEW PERFORMED FOR SITE EVALUATION:**

Office (Desk) Determination Only. Date: .

Office (Desk) and Field Determination. Office/Desk Dates: September 19, 2018 Field Date(s): April 27, 2018.

### **SECTION II: DATA SOURCES**

Check all that were used to aid in the determination and attach data/maps to this AJD form and/or references/citations in the administrative record, as appropriate.

Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant. Title/Date: Figure 4 in the Regulated Waters/Wetland Delineation Report for Keck Office Park, Jackson Township, Stark County, Ohio dated 11 September 2017, submitted by Cardno, Inc.. (Delineation Report).

Data sheets prepared/submitted by or on behalf of the applicant/consultant.

Data sheets/delineation report are sufficient for purposes of AJD form. Title/Date: .

Data sheets/delineation report are not sufficient for purposes of AJD form. Summarize rationale and include information on revised data sheets/delineation report that this AJD form has relied upon: .

Revised Title/Date: .

Data sheets prepared by the Corps. Title/Date: .

Corps navigable waters study. Title/Date: .

CorpsMap ORM map layers. Title/Date: USGS NHD, USFWS NWI, and FEMA Flood Hazard Zones.

USGS Hydrologic Atlas. Title/Date: .

USGS, NHD, or WBD data/maps. Title/Date: .

USGS 8, 10 and/or 12 digit HUC maps. HUC number: 05040001-Tuscarawas, 0504000103-Nimisila Creek-Tuscarawas River, 050400010302-Nimisila Reservoir-Nimisila Creek.

USGS maps. Scale & quad name and date: .

USDA NRCS Soil Survey. Citation: Soil Map, Figure 3, Delineation Report..

USFWS National Wetlands Inventory maps. Citation: NWI, Figure 2, Delineation Report.

State/Local wetland inventory maps. Citation: .

FEMA/FIRM maps. Citation: .

Photographs:  Aerial. Citation: Figures as part of the Delineation Report.. or  Other. Citation: Site Photographs as part of the Delineation Report. .

LiDAR data/maps. Citation: .

- Previous JDs. File no. and date of JD letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): ORAM Forms contained in the Delineation Report .

### **SECTION III: SUMMARY OF FINDINGS**

**Complete ORM "Aquatic Resource Upload Sheet" or Export and Print the Aquatic Resource Screen from ORM for All Waters and Features, Regardless of Jurisdictional Status – Required**

#### **A. RIVERS AND HARBORS ACT (RHA) SECTION 10 DETERMINATION OF JURISDICTION:**

- "navigable waters of the U.S." within RHA jurisdiction (as defined by 33 CFR part 329) in the review area.

- **Complete Table 1 - Required**

*NOTE:* If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Section 10 navigable waters list, DO NOT USE THIS FORM TO MAKE THE DETERMINATION. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Section 10 RHA navigability determination.

#### **B. CLEAN WATER ACT (CWA) SECTION 404 DETERMINATION OF JURISDICTION:** "waters of the U.S." within CWA jurisdiction (as defined by 33 CFR part 328.3) in the review area. **Check all that apply.**

- (a)(1): All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (Traditional Navigable Waters (TNWs))

- **Complete Table 1 - Required**

- This AJD includes a case-specific (a)(1) TNW (Section 404 navigable-in-fact) determination on a water that has not previously been designated as such. Documentation required for this case-specific (a)(1) TNW determination is attached.

- (a)(2): All interstate waters, including interstate wetlands.

- **Complete Table 2 - Required**

- (a)(3): The territorial seas.

- **Complete Table 3 - Required**

- (a)(4): All impoundments of waters otherwise identified as waters of the U.S. under 33 CFR part 328.3.

- **Complete Table 4 - Required**

- (a)(5): All tributaries, as defined in 33 CFR part 328.3, of waters identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 5 - Required**

- (a)(6): All waters adjacent to a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters.

- **Complete Table 6 - Required**

- Bordering/Contiguous.

Neighboring:

- (c)(2)(i): All waters located within 100 feet of the ordinary high water mark (OHWM) of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3.

- (c)(2)(ii): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 and not more than 1,500 feet of the OHWM of such water.

- (c)(2)(iii): All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (a)(1) or (a)(3) of 33 CFR part 328.3, and all waters within 1,500 feet of the OHWM of the Great Lakes.

- (a)(7): All waters identified in 33 CFR 328.3(a)(7)(i)-(v) where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 7 for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(7) waters identified in the similarly situated analysis. - Required**

- Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

- (a)(8): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3 not covered by (c)(2)(ii) above and all waters located within 4,000 feet of the high tide line or OHWM of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 8 for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(8) waters identified in the similarly situated analysis. - Required**

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

**C. NON-WATERS OF THE U.S. FINDINGS:**

**Check all that apply.**

- The review area is comprised entirely of dry land.
- Potential-(a)(7) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 9 and attach a map delineating the SPOE watershed boundary with potential (a)(7) waters identified in the similarly situated analysis. - Required**

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

- Potential-(a)(8) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 9 and attach a map delineating the SPOE watershed boundary with potential (a)(8) waters identified in the similarly situated analysis. - Required**

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

- Excluded Waters (Non-Waters of U.S.), even where they otherwise meet the terms of paragraphs (a)(4)-(a)(8):

- **Complete Table 10 - Required**

(b)(1): Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA.

(b)(2): Prior converted cropland.

(b)(3)(i): Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(b)(3)(ii): Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(b)(3)(iii): Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1)-(a)(3).

(b)(4)(i): Artificially irrigated areas that would revert to dry land should application of water to that area cease.

(b)(4)(ii): Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds.

(b)(4)(iii): Artificial reflecting pools or swimming pools created in dry land.<sup>1</sup>

(b)(4)(iv): Small ornamental waters created in dry land.<sup>1</sup>

(b)(4)(v): Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water.

(b)(4)(vi): Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways.<sup>1</sup>

(b)(4)(vii): Puddles.<sup>1</sup>

(b)(5): Groundwater, including groundwater drained through subsurface drainage systems.<sup>1</sup>

(b)(6): Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.<sup>1</sup>

(b)(7): Wastewater recycling structures created in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

- Other non-jurisdictional waters/features within review area that do not meet the definitions in 33 CFR 328.3 of (a)(1)-(a)(8) waters and are not excluded waters identified in (b)(1)-(b)(7).

- **Complete Table 11 - Required.**

**D. ADDITIONAL COMMENTS TO SUPPORT AJD:** See Tables 8 and 9 below.

<sup>1</sup> In many cases these excluded features will not be specifically identified on the AJD form, unless specifically requested. Corps Districts may, in case-by-case instances, choose to identify some or all of these features within the review area.



**Jurisdictional Waters of the U.S.**

Default field entry is “N/A”. Delete “N/A” and fill out all fields in the table where applicable for waters/features present in the review area.

**Table 1. (a)(1) Traditional Navigable Waters**

<b>(a)(1) Waters Name</b>	<b>(a)(1) Criteria</b>	<b>Rationale to Support (a)(1) Designation Include High Tide Line or Ordinary High Water Mark indicators, when applicable.</b>
N/A	Choose an item.	N/A

**Table 2. (a)(2) Interstate Waters**

<b>(a)(2) Waters Name</b>	<b>Rationale to Support (a)(2) Designation</b>
N/A	N/A

**Table 3. (a)(3) Territorial Seas**

<b>(a)(3) Waters Name</b>	<b>Rationale to Support (a)(3) Designation</b>
N/A	N/A

**Table 4. (a)(4) Impoundments**

<b>(a)(4) Waters Name</b>	<b>Rationale to Support (a)(4) Designation</b>
N/A	N/A

**Table 5. (a)(5) Tributaries**

<b>(a)(5) Waters Name</b>	<b>Flow Regime</b>	<b>(a)(1)-(a)(3) Water Name to which this (a)(5) Tributary Flows</b>	<b>Tributary Breaks</b>	<b>Rationale for (a)(5) Designation and Additional Discussion. Identify flowpath to (a)(1)-(a)(3) water or attach map identifying the flowpath; explain any breaks or flow through excluded/non-jurisdictional features, etc.</b>
N/A	Choose an item.	N/A	Choose an item.	N/A

**Table 6. (a)(6) Adjacent Waters**

<b>(a)(6) Waters Name</b>	<b>(a)(1)-(a)(5) Water Name to which this Water is Adjacent</b>	<b>Rationale for (a)(6) Designation and Additional Discussion. Identify the type of water and how the limits of jurisdiction were established (e.g., wetland, 87 Manual/Regional Supplement); explain how the 100-year floodplain</b>
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		<b>and/or the distance threshold was determined; whether this water extends beyond a threshold; explain if the water is part of a mosaic, etc.</b>
N/A	N/A	N/A

**Table 7. (a)(7) Waters**

<b>SPOE Name</b>	<b>(a)(7) Waters Name</b>	<b>(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus</b>	<b>Significant Nexus Determination Identify SPOE watershed; discuss whether any similarly situated waters were present and aggregated for SND; discuss data, provide analysis, and summarize how the waters have more than speculative or insubstantial effect on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water, etc.</b>
N/A	N/A	N/A	N/A

**Table 8. (a)(8) Waters**

<b>SPOE Name</b>	<b>(a)(8) Waters Name</b>	<b>(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus</b>	<b>Significant Nexus Determination Identify SPOE watershed; explain how 100-yr floodplain and/or the distance threshold was determined; discuss whether waters were determined to be similarly situated to subject water and aggregated for SND; discuss data, provide analysis, and then summarize how the waters have more than speculative or insubstantial effect the on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water, etc.</b>
1	Wetland 1	Tuscarawas River (a)(1)	<p>The SPOE 1 watershed lateral limits were delineated using the ORM JD Viewer SPOE tool. The SPOE watershed is depicted on the attached map labeled SPOE 1-LRH-2018-302-TUS. The 100-year floodplain was determined via the CorpsMap ORM layer FEMA Flood Hazards but Wetland 1 is not located within the floodplain of an (a)(1)-(a)(3) water. The distance to an (a)(5) water was measured via the CorpsMap ORM distance tool. Wetland 1 is located approximately 3,615 linear feet from Nimisila Creek via an excavated drainageway, which is located northeast of the approved JD boundary. Nimisila Creek is located outside of the approved JD review area; however, this tributary exhibits a defined bed and bank, an ordinary high water mark, and contributes flow to a downstream (a)(1) water, the Tuscarawas River. Therefore, Nimisila Creek is an (a)(5) water.</p> <p>Similarly situated waters were determined using the ORM JD Viewer SPOE tool SVL (Soil, Vegetation, and Landrom) layers which include: (S) soil drainage class (SSURGO), (V) gap land cover-vegetation class, and (L) landforms (USGS HUC 10). The approved JD site is bordered by differing SVL layers which limits the similarly situated review area to the approved JD site. No waters within the SPOE watershed were determined to be similarly situated.</p> <p>Climatological information and hydrologic information were considered in the analysis of the physical characteristics of Wetland 1. The area surrounding the subject site receives an average annual precipitation of 41 inches per year and an</p>

			<p>average annual snowfall of 32 inches per year. Wetland 1 continues outside of the study area and conveys storm water and surface runoff to the tributary system via an off-site ditch to Nimisila Creek located approximately 3,615 feet northeast of Wetland 1 outside of the approved JD review area. Wetland 1 is located outside of the ordinary high water mark of the off-site ditch and therefore, is not considered an excluded feature associated with an excavated drainageway.</p> <p>The off-site ditch provides flow to Nimisila Creek which flows to the Tuscarawas River, a TNW. Nimisila Creek is characterized as a warm-water habitat (WWH) by the Ohio EPA under the Ohio Administrative Code, Chapter 3745-1 Water Quality Standards.</p> <p>Given the amount of annual precipitation for the area surrounding the subject site, Wetland 1 consistently conveys storm water and surface runoff to the tributary system via an unnamed ditch to Nimisila Creek located approximately 3,615 feet northeast of Wetland 1 outside of the approved JD review area. Wetlands protect and improve water quality, provide fish and wildlife habitats, and store floodwaters. Wetland 1 provides additional sediment and nutrient trapping, flow attenuation, and habitat for non-riverine plant and animal species. Wetland 1 also has the ability to provide nutrients and organic carbon that support food webs for plants and wildlife via Nimisila Creek and further downstream into the Tuscarawas River. Wetland 1 has the capacity to carry and reduce pollutants or flood waters to the receiving (a)(1) water, the Tuscarawas River, via an unnamed ditch to Nimisila Creek. Wetland 1 helps maintain the integrity of Nimisila Creek and has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of the receiving (a)(1) water, the Tuscarawas River.</p> <p>Wetland 1 provides the following functions as observed by the evidence of hydrological indicators (water marks, shallow surface water (~1 inch) throughout portions of the wetland, saturation, and FAC-neutral test): sediment trapping; nutrient recycling; pollutant trapping, transformation, filtering, and transport; and retention and attenuation of flood waters; runoff storage. Wetland 1 has been determined to be an (a)(8) water and is considered a jurisdictional water of the United States.</p>
2	Wetland 7	Tuscarawas River (a)(1)	<p>The SPOE 2 watershed lateral limits were delineated using the ORM JD Viewer SPOE tool. The SPOE watershed is depicted on the attached map labeled SPOE 2-LRH-2018-302-TUS. The 100-year floodplain was determined via the CorpsMap ORM layer FEMA Flood Hazards but Wetland 7 is not located within the floodplain of an (a)(1)-(a)(3) water. The distance to an (a)(5) water was measured via the CorpsMap ORM distance tool. Wetland 7 is located approximately 275 linear feet from an unnamed tributary to Nimisila Creek via a culvert and excavated drainageway, which is located west of the approved JD boundary. The unnamed tributary to Nimisila Creek is located outside of the approved JD review area; however, this tributary exhibits a defined bed and bank, an ordinary high water mark,</p>

		<p>and contributes flow to a downstream (a)(1) water, the Tuscarawas River. Therefore, Nimisila Creek is an (a)(5) water.</p> <p>Similarly situated waters were determined using the ORM JD Viewer SPOE tool SVL (Soil, Vegetation, and Landrom) layers which include: (S) soil drainage class (SSURGO), (V) gap land cover-vegetation class, and (L) landforms (USGS HUC 10). The approved JD site is bordered by differing SVL layers which limits the similarly situated review area to the approved JD site. No waters within the SPOE watershed were determined to be similarly situated.</p> <p>Climatological information and hydrologic information were considered in the analysis of the physical characteristics of Wetland 7. The area surrounding the subject site receives an average annual precipitation of 41 inches per year and an average annual snowfall of 32 inches per year. Wetland 7 continues outside of the study area and conveys storm water and surface runoff to the tributary system via an off-site culvert and drainageway to an unnamed tributary of Nimisila Creek, located approximately 275 feet west of Wetland 7 outside of the approved JD review area. Wetland 7 is located outside of the ordinary high water mark of the off-site drainageway and therefore, is not considered an excluded feature associated with an excavated drainageway.</p> <p>The off-site ditch provides flow to an unnamed tributary to Nimisila Creek which flows to Nimisila Creek and then into the Tuscarawas River, a TNW. Nimisila Creek is characterized as a warm-water habitat (WWH) by the Ohio EPA under the Ohio Administrative Code, Chapter 3745-1 Water Quality Standards.</p> <p>Given the amount of annual precipitation for the area surrounding the subject site, Wetland 7 consistently conveys storm water and surface runoff to the tributary system via an unnamed ditch to an unnamed tributary to Nimisila Creek located approximately 275 feet west of Wetland 7 outside of the approved JD review area. Wetlands protect and improve water quality, provide fish and wildlife habitats, and store floodwaters. Wetland 7 provides additional sediment and nutrient trapping, flow attenuation, and habitat for non-riverine plant and animal species. Wetland 7 also has the ability to provide nutrients and organic carbon that support food webs for plants and wildlife via Nimisila Creek and further downstream into the Tuscarawas River. Wetland 7 has the capacity to carry and reduce pollutants or flood waters to the receiving (a)(1) water, the Tuscarawas River, via an unnamed ditch to Nimisila Creek. Wetland 7 helps maintain the integrity of Nimisila Creek and has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of the receiving (a)(1) water, the Tuscarawas River.</p> <p>Wetland 7 provides the following functions as observed by the evidence of hydrological indicators (shallow surface water (&lt;1 inch) throughout portions of the wetland, saturation visible on aerial imagery, geomorphic position and FAC-neutral test): sediment trapping; nutrient recycling; pollutant trapping, transformation,</p>
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			filtering, and transport; and retention and attenuation of flood waters; runoff storage. Wetland 1 has been determined to be an (a)(8) water and is considered a jurisdictional water of the United States.
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**Non-Jurisdictional Waters**

Default field entry is "N/A". Delete "N/A" and fill out all fields in the table where applicable for waters/features present in the review area.

**Table 9. Non-Waters/No Significant Nexus**

<b>SPOE Name</b>	<b>Non-(a)(7)/(a)(8) Waters Name</b>	<b>(a)(1)-(a)(3) Water Name to which this Water DOES NOT have a Significant Nexus</b>	<b>Basis for Determination that the Functions DO NOT Contribute Significantly to the Chemical, Physical, or Biological Integrity of the (a)(1)-(a)(3) Water. Identify SPOE watershed; explain how 100-yr floodplain and/or the distance threshold was determined; discuss whether waters were determined to be similarly situated to the subject water; discuss data, provide analysis, and summarize how the waters did not have more than a speculative or insubstantial effect on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water.</b>
1	Wetland 2	Tuscarawas River (a)(1)	<p>The SPOE 1 watershed lateral limits were delineated using the ORM JD Viewer SPOE tool. The SPOE watershed is depicted on the attached map labeled SPOE 1-LRH-2018-302-TUS. The 100-year floodplain was determined via the CorpsMap ORM layer FEMA Flood Hazards but Wetland 2 is not located within the floodplain of an (a)(1)-(a)(3) water. The distance to an (a)(5) water was measured via the CorpsMap ORM distance tool. Wetland 2 is located approximately 4,205 linear feet from Nimisila Creek. Nimisila Creek is located outside of the approved JD review area; however, Wetland 2 exceeds the distance from an RPW that would make it an (a)(8) water.</p> <p>Similarly situated waters were determined using the ORM JD Viewer SPOE tool SVL (Soil, Vegetation, and Landrom) layers and no waters within the SPOE watershed were determined to be similarly situated.</p> <p>Wetland 2 is located approximately 4,205 feet of the ordinary high water mark of Nimisila Creek located north east of the subject site, exceeding the distance threshold for a significant nexus determination. Wetland 2 does not have more than a speculative effect on the physical, chemical, or biological integrity of the downstream (a)(1) water, the Tuscarawas River as it is not similarly situated. Therefore, Wetland 2 is not considered to be a jurisdictional water of the United States.</p>
1	Wetland 3	Tuscarawas River (a)(1)	<p>The SPOE 1 watershed lateral limits were delineated using the ORM JD Viewer SPOE tool. The SPOE watershed is depicted on the attached map labeled SPOE 1-LRH-2018-302-TUS. The 100-year floodplain was determined via the CorpsMap ORM layer FEMA Flood Hazards but Wetland 2 is not located within the floodplain of an (a)(1)-(a)(3) water. The distance to an (a)(5) water was measured via the CorpsMap ORM distance tool. Wetland</p>

			<p>3 is located approximately 4,388 linear feet from Nimisila Creek. Nimisila Creek is located outside of the approved JD review area; however, Wetland 3 exceeds the distance from an RPW that would make it an (a)(8) water.</p> <p>Similarly situated waters were determined using the ORM JD Viewer SPOE tool SVL (Soil, Vegetation, and Landrom) layers and no waters within the SPOE watershed were determined to be similarly situated.</p> <p>Wetland 3 is located approximately 4,388 feet of the ordinary high water mark of Nimisila Creek located north east of the subject site, exceeding the distance threshold for a significant nexus determination. Wetland 3 does not have more than a speculative effect on the physical, chemical, or biological integrity of the downstream (a)(1) water, the Tuscarawas River as it is not similarly situated. Therefore, Wetland 3 is not considered to be a jurisdictional water of the United States.</p>
1	Wetland 4	Tuscarawas River (a)(1)	<p>The SPOE 1 watershed lateral limits were delineated using the ORM JD Viewer SPOE tool. The SPOE watershed is depicted on the attached map labeled SPOE 1-LRH-2018-302-TUS. The 100-year floodplain was determined via the CorpsMap ORM layer FEMA Flood Hazards but Wetland 2 is not located within the floodplain of an (a)(1)-(a)(3) water. The distance to an (a)(5) water was measured via the CorpsMap ORM distance tool. Wetland 4 is located approximately 4,525 linear feet from Nimisila Creek. Nimisila Creek is located outside of the approved JD review area; however, Wetland 4 exceeds the distance from an RPW that would make it an (a)(8) water.</p> <p>Similarly situated waters were determined using the ORM JD Viewer SPOE tool SVL (Soil, Vegetation, and Landrom) layers and no waters within the SPOE watershed were determined to be similarly situated.</p> <p>Wetland 4 is located approximately 4,525 feet of the ordinary high water mark of Nimisila Creek located north east of the subject site, exceeding the distance threshold for a significant nexus determination. Wetland 4 does not have more than a speculative effect on the physical, chemical, or biological integrity of the downstream (a)(1) water, the Tuscarawas River as it is not similarly situated. Therefore, Wetland 4 is not considered to be a jurisdictional water of the United States.</p>
1	Wetland 5	Tuscarawas River (a)(1)	<p>The SPOE 1 watershed lateral limits were delineated using the ORM JD Viewer SPOE tool. The SPOE watershed is depicted on the attached map labeled SPOE 1-LRH-2018-302-TUS. The 100-year floodplain was determined via the CorpsMap ORM layer FEMA Flood Hazards but Wetland 2 is not located within the floodplain of an (a)(1)-(a)(3) water. The distance to an (a)(5) water was measured via the CorpsMap ORM distance tool. Wetland 5 is located approximately 4,535 linear feet from Nimisila Creek. Nimisila Creek is located outside of the approved JD review area; however, Wetland 5 exceeds the distance from an RPW that would make it an (a)(8) water.</p>

			<p>Similarly situated waters were determined using the ORM JD Viewer SPOE tool SVL (Soil, Vegetation, and Landrom) layers and no waters within the SPOE watershed were determined to be similarly situated.</p> <p>Wetland 5 is located approximately 4,535 feet of the ordinary high water mark of Nimisila Creek located north east of the subject site, exceeding the distance threshold for a significant nexus determination. Wetland 5 does not have more than a speculative effect on the physical, chemical, or biological integrity of the downstream (a)(1) water, the Tuscarawas River as it is not similarly situated. Therefore, Wetland 5 is not considered to be a jurisdictional water of the United States.</p>
1	Wetland 6	Tuscarawas River (a)(1)	<p>The SPOE 1 watershed lateral limits were delineated using the ORM JD Viewer SPOE tool. The SPOE watershed is depicted on the attached map labeled SPOE 1-LRH-2018-302-TUS. The 100-year floodplain was determined via the CorpsMap ORM layer FEMA Flood Hazards but Wetland 2 is not located within the floodplain of an (a)(1)-(a)(3) water. The distance to an (a)(5) water was measured via the CorpsMap ORM distance tool. Wetland 6 is located approximately 4,402 linear feet from Nimisila Creek. Nimisila Creek is located outside of the approved JD review area; however, Wetland 6 exceeds the distance from an RPW that would make it an (a)(8) water.</p> <p>Similarly situated waters were determined using the ORM JD Viewer SPOE tool SVL (Soil, Vegetation, and Landrom) layers and no waters within the SPOE watershed were determined to be similarly situated.</p> <p>Wetland 6 is located approximately 4,402 feet of the ordinary high water mark of Nimisila Creek located north east of the subject site, exceeding the distance threshold for a significant nexus determination. Wetland 6 does not have more than a speculative effect on the physical, chemical, or biological integrity of the downstream (a)(1) water, the Tuscarawas River as it is not similarly situated. Therefore, Wetland 6 is not considered to be a jurisdictional water of the United States.</p>

**Table 10. Non-Waters/Excluded Waters and Features**

<b>Paragraph (b) Excluded Feature/Water Name</b>	<b>Rationale for Paragraph (b) Excluded Feature/Water and Additional Discussion.</b>
N/A	N/A
N/A	N/A

**Table 11. Non-Waters/Other**

<b>Other Non-Waters of U.S. Feature/Water Name</b>	<b>Rationale for Non-Waters of U.S. Feature/Water and Additional Discussion.</b>
N/A	N/A



Waters_Name	State	Cowardin		Units	Waters_ Type	Latitude	Longitude	Local
		Code	Amount					Waterway
2018-302 Wetland 1-PEM CWR	OH	PEM-PALUS	0.16	ACRES	A8OWB	40.89084	-81.48219	2018-302 We
2018-302 Wetland 1-PFO CWR	OH	PFO-PALUS	4.31	ACRES	A8OWB	40.89038	-81.47982	2018-302 We
2018-302 Wetland 2 - CWR	OH	PEM-PALUS	0.04	ACRES	OTHERDIST	40.89207	-81.48288	2018-302 We
2018-302 Wetland 3 - CWR	OH	PEM-PALUS	0.07	ACRES	OTHERDIST	40.92894	-81.48283	2018-302 We
2018-302 Wetland 4 - CWR	OH	PEM-PALUS	0.09	ACRES	OTHERDIST	40.89004	-81.48236	2018-302 We
2018-302 Wetland 5 - CWR	OH	PEM-PALUS	0.06	ACRES	OTHERDIST	40.89116	-81.48316	2018-302 We
2018-302 Wetland 6 - CWR	OH	PEM-PALUS	0.08	ACRES	OTHERDIST	40.89044	-81.48321	2018-302 We
2018-302 Wetland 7 - CWR	OH	PSS-PALUS	3.45	ACRES	A8OWB	40.89033	-81.48586	2018-302 We

