



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): 10/28/20
ORM Number: LRH-2020-00717-SCR
Associated JDs: N/A
Review Area Location¹:
State/Territory: OH City: Jerome Township County/Parish/Borough: Union County
Center Coordinates of Review Area: Latitude 40.143772 Longitude -83.195399

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	1,217 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 1 is an intermittent, indirect tributary to the Scioto River, an (a)(1) water, at a location outside of the review area. Stream 1 contributes intermittent surface water flow indirectly to the Scioto River in a typical year (reference Section III B of this AJD form). Stream 1 includes one (1) culvert located within the review area. Up- and downstream flows are maintained on either side of the artificial structure and jurisdiction is not severed.

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	0.82 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts Stream 1, an (a)(2) water, referenced above.

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 independent 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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Pond 1	1.25 acres	(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)	Based on aerial imagery, Pond 1 is a manmade feature constructed in uplands around 1994. Pond 1 is not an impoundment of a jurisdictional water, is not considered a water of the United States per 33 CFR 328.3(b)(8), and is not subject to regulation under Section 404.
Wetland 2	0.11 acres	(b)(1) Non-adjacent wetland	Wetland 2 does not meet the definition of an adjacent wetland (33 CFR 328.3(c)(1)(i)-(iv)), is not considered a water of the United States per 33 CFR 328.3(b)(1), and is not subject to regulation under Section 404.

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: [Report of Jurisdictional Waters Delineation, Proposed Residential Development Property, 8449 and 8531 McKittrick Road, Jerome Township, Union County, Ohio dated 24 February 2020 \(JD, Feb 2020\)](#). This information is sufficient for purposes of this AJD.

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: [Photo Key Map, Photographs 1-45, Concept Plan Map, Jurisdictional Waters Location Map, Site Features Map, and 1956, 1964, 1976, 1989, 1994, 1997, 2003, 2009, 2015, and 2019 aerial photographs \(JD, Feb 2020\)](#)

Corps Site visit(s) conducted on: *Date(s)*.

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: [USDA Web Soil Survey \(JD, Feb 2020\)](#)

USFWS NWI maps: [NWI Map \(JD, Feb 2020\)](#)

USGS topographic maps: [General Property Location Map, Property Location Map, 1954 USGS Topographic Map, 1967 USGS Topographic Map, 1973 USGS Topographic Map, 1980 USGS Topographic Map, 2016 USGS Topographic Map](#)

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	Union County Auditor's GIS Map, Wetland Determination Data Form, and

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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	ORAM Form (JD, Feb 2020)
Other Sources	FEMA National Flood Hazard Layer, Huntington District Regulatory Viewers

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. Three (3) point-in-time data sources dated 11 October 2019, 11 February 2020, and 17 February 2020, with corresponding antecedent precipitation tool (APT) reports, are included in the evaluation for the features listed above, as applicable. According to the APT report for 11 October 2019, drier than normal conditions with an antecedent precipitation condition score of 9 was observed during the WebWIMP wet season with a Palmer Drought Severity Index Value of moderate wetness. The 30-day rolling total for precipitation was lower than the normal rolling thirty year period. According to the APT report for 11 February 2020, normal conditions with an antecedent precipitation condition score of 13 was observed during the WebWIMP wet season with a Palmer Drought Severity Index Value of moderate wetness. The 30-day rolling total for precipitation was within the normal rolling thirty year period. According to the APT report for the 17 February 2020, normal conditions with an antecedent precipitation condition score of 14 was observed during the WebWIMP wet season with a Palmer Drought Severity Index Value of moderate wetness. The 30-day rolling total for precipitation was within the normal rolling thirty year period. On the 17 February 2020, Stream 1 exhibited flow within the stream channel; and, on 11 October 2019, Stream 1 exhibited less flow within the stream channel compared to 17 February 2020. Stream 1 is depicted on the USGS topographic map, the NWI map, and the NHD. Based on the submitted information, Stream 1 exhibits intermittent flow. Based on an intermittent flow regime and the APT reports, Stream 1 would be expected to exhibit less flow on 11 October 2019 than on 17 February 2020 which is consistent with the observed flow conditions . Stream 1 contributes intermittent flow offsite downstream indirectly to the Scioto River, an (a)(1) water, in a typical year. Therefore, Stream 1 is (a)(2) water. Wetland 1 directly abuts Stream 1, an (a)(2) water. Therefore, Wetland 1 is an (a)(4) water. Based on aerial imagery, Pond 1 is a manmade feature constructed in uplands around 1994. Pond 1 is not an impoundment of Stream 1 or any jurisdictional water of the United States. Therefore, Pond 1 is not a jurisdictional water of the United States per 33 CFR 328.3(b)(8). Wetland 2 is separated from Wetland 1 by an elevated roadway with no indication of a direct hydrologic surface connection via an artificial structure through the roadway. Therefore, Wetland 2 is not a continuation of Wetland 1. Wetland 2 does not directly abut a water identified in 33 CFR 328.3(a)(1), (2), or (3), is 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, and is 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 2 is not a jurisdictional water of the United States per 33 CFR 328.3(b)(1).

C. Additional comments to support AJD: N/A.

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.