



**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): 5/10/2021  
 ORM Number: LRH-2020-225-MUS  
 Associated JDs: Yes, LRH-2020-225-MUS Lucas Property under RAPANOS  
 Review Area Location<sup>1</sup>: State/Territory: Ohio City: Etna Township County/Parish/Borough: Licking  
 Center Coordinates of Review Area: Latitude 39.9514 Longitude -82.6793

**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.          | 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.            | N/A.                               |

| Tributaries ((a)(2) waters): |             |             |  |   |
|------------------------------|-------------|-------------|--|---|
| (a)(2) Name                  | (a)(2) Size |             | (a)(2) Criteria  | Rationale for (a)(2) Determination  |
| Stream 1                     | 1,571       | 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 an perennial tributary to South Fork Licking River, an (a)(2) water, an indirect tributary to the Muskingum River an (a)(1) TNW outside of the AJD boundary, in a typical year (reference Section III B of this AJD form) |

<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  |
| Wetland C                          | 0.03        | acre(s) | (a)(4) Wetland abuts an (a)(1)-(a)(3) water.  | Wetland C is an (a)(4) water that directly abuts an (a)(2) perennial water (Stream 1) located in a typical year.        |
| Wetland D                          | 0.10        | acre(s) | (a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year. | Wetland D is an (a)(4) water that is inundated by flooding from an (a)(2) perennial water (Stream 1) in a typical year. |

**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   |
| Stream 2   | 463            | linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | Feature is an ephemeral feature and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments.   |
| Wetland A  | 0.34           | acre(s)     | (b)(1) Non-adjacent wetland.  | Feature 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. Reference Section III B of this AJD form for typical year assessments. |
| Wetland B  | 0.03           | acre(s)     | (b)(1) Non-adjacent wetland.  | Feature 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. Reference Section III B of this AJD form for typical year assessments. |
| Wetland E  | 0.08           | acre(s)     | (b)(1) Non-adjacent wetland.  | Feature 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. Reference  |

<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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| Excluded waters ((b)(1) – (b)(12)): <sup>4</sup> |                |             |  |   |
|--|----------------|-------------|--|---|
| Exclusion Name                                   | Exclusion Size |             | Exclusion <sup>5</sup>   | Rationale for Exclusion Determination   |
|  |                |             |  | Section III B of this AJD form for typical year assessments.  |
| Wetland F  | 0.07           | acre(s)     | (b)(1) Non-adjacent wetland.   | Feature 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. Reference Section III B of this AJD form for typical year assessments. |
| Wetland G  | 0.05           | acre(s)     | (b)(1) Non-adjacent wetland.   | Feature 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. Reference Section III B of this AJD form for typical year assessments. |
| Wetland H  | 0.08           | acre(s)     | (b)(1) Non-adjacent wetland.   | Feature 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. Reference Section III B of this AJD form for typical year assessments. |
| Wetland I  | 0.04           | acre(s)     | (b)(1) Non-adjacent wetland.   | Feature 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. Reference Section III B of this AJD form for typical year assessments. |
| Wetland J  | 0.04           | acre(s)     | (b)(1) Non-adjacent wetland.   | Feature 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. Reference Section III B of this AJD form for typical year assessments. |
| Ditch 1  | 282            | 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 is not an (a)(1) or (a)(2), and was constructed within uplands.   |



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| Excluded waters ((b)(1) – (b)(12)): <sup>4</sup> |                |                        |   |
|--|----------------|------------------------|---|
| Exclusion Name                                   | Exclusion Size | Exclusion <sup>5</sup> | Rationale for Exclusion Determination   |
| Erosional Feature 1                              | 55             | linear feet            | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Feature is an ephemeral feature and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments.   |
| Erosional Feature 2                              | 173            | linear feet            | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Feature is an ephemeral feature and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments.   |
| Erosional Feature 3                              | 221            | linear feet            | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Feature is an ephemeral feature and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments.   |
| Farm Pond 1                                      | 0.55           | linear feet            | (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). Pond 1 does not contribute flow to an (a)(1)-(a)(2) water, is artificial (manmade) feature constructed entirely in uplands, and not an impoundment of an (a)(1)-(a)(2) water. |

**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 Report, Lucas & Lowery Properties, Etna Township, Licking County, Ohio, prepared by CEC dated 24 March 2021 and additional information received on 4 April 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: Within referenced JD report.](#)
- Corps site visit(s) conducted on: [Date\(s\).](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [LRH-2020-225 \(RAPANOS PJD and AJD dated Apr 2020\)](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Licking County, Ohio](#)
- USFWS NWI maps: [Title\(s\) and/or date\(s\).](#)



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USGS topographic maps: 1:24K, Pataskala, OH Quad.

**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              | USACE Wetland Data Forms 10 Page ORAM Forms     |

**B. Typical year assessment(s):** A typical year occurs over a rolling 30-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, 24 November 2020 (Wet Season), with a corresponding APT report, were included in the evaluation of the site. The antecedent precipitation tool was utilized to determine typical year for point-in-time data sources. Potential wetland identification was assessed on 24 November 2020. Based on the antecedent precipitation tool, 24 November 2020 is included during the WebWIMP wet season and has a Palmer Drought Severity Index of 1.13 mild wetness. The 30-day rolling total for precipitation was within the 30-year normal range. Therefore, site conditions appeared to be within a typical year. Based on the submitted information, Stream 1 contributes perennial flow to a downstream (a)(1) water in a typical year. The ephemeral features had no flow at the time of investigation. Additionally, the non-jurisdictional wetlands on-site did not meet the criteria for adjacency to an (a)(1)-(a)(2) water.

**C. Additional comments to support AJD:** A portion of the northern AJD boundary is located within the floodplain and covers Stream 1, Wetland C, and Wetland D. The rest of the project area is located outside of the FEMA Floodplain.