



**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): 6/29/2020  
 ORM Number: LRH-2020-346-LMR-Unnamed Tributary Muddy Creek  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: Ohio City: Mason County/Parish/Borough: Butler  
 Center Coordinates of Review Area: Latitude 39.385995 Longitude -84.286845

**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)<sup>2</sup>**

§ 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): <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.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.	N/A.	N/A.	N/A.

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
N/A.	N/A.	N/A.	N/A.

<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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**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
Wetland A	0.05	acre(s)	(b)(1) Non-adjacent wetland.	Wetland A does not abut an (a)(1), (a)(2), or (a)(3) water, is not inundated by flooding from an (a)(1), (a)(2), or (a)(3) water in a typical year, and is not physically separated from an (a)(1), (a)(2), or (a)(3) water by a natural or artificial barrier.
Wetland B	0.04	acre(s)	(b)(1) Non-adjacent wetland.	Wetland B does not abut an (a)(1), (a)(2), or (a)(3) water, is not inundated by flooding from an (a)(1), (a)(2), or (a)(3) water in a typical year, and is not physically separated from an (a)(1), (a)(2), or (a)(3) water by a natural or artificial barrier.
Swale 3	230	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Swale 1 is an erosional feature in the landscape and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Swale 4	300	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Swale 2 is an erosional feature in the landscape and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Channel 1	100	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Channel 1 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Channel 2	103	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Channel 2 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments
Pond 1	1.4	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	Pond 1 is an artificial open water feature that appears to have been constructed in uplands and is not an impoundment of a jurisdictional water.

<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
		a jurisdictional water that meets (c)(6).	

**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: [Civil & Environmental Consultants, Inc., on behalf of Vega Americas Inc., submitted a Wetland and Waterbody Delineation Report for the Vega Americas Mason Headquarters Project dated](#)

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: [Other: Appendix A: Site Photographs 1-29, dated 12 March 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: [Figure 2: Resource Location Map](#)
- USFWS NWI maps: [Figure 2: Resource Location Map](#)
- USGS topographic maps: [Figure 1: Site Location Map \(7.5 Minute Series\)](#)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">National Hydrography Dataset</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">CorpsMap ORM Map Layers</a>	<a href="#">Aquatic Resource Layer</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">Historic Aerial Photos and Topographic Maps</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 point-in-time data sources, one for 12 March 2020 and one for 25 June 2020, with a corresponding APT report, were included in the evaluation for the excluded ephemeral streams listed in Section II.D. \(Channels 1 and 2\). According to the APT report for 12 March 2020, normal conditions were observed during the wet season with a PSDI Value of 2.15 \(moderate wetness\) and an ARC score of 13 . The antecedent precipitation condition is considered “normal” for that point in time. According to the APT report of 25 June 2020, normal conditions were observed during the dry season with a PSDI Value of 2.46 \(moderate wetness\) and an ARC score of 11. The antecedent precipitation condition is considered “normal” for that point in time. On 12 March 2020, during normal conditions of the wet season, flow was observed within the ephemeral streams; however, surface water flow was also observed in uplands and erosional rills during this date. It is expected that ephemeral stream channels would exhibit flow during periods when surface flow is present in uplands and](#)



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erosional rills. During a second investigation on 25 June 2020, during normal conditions with moderate wetness in the dry season, no flow was observed and vegetation was present within the channels, which would be characteristic of stream that flows only in direct response to rain events. Topographic maps are another point-in-time resource that can provide information for typical year assessments as they often show features such as intermittent and perennial flowing streams. Topographic maps from 1939 to 2016 were consulted and they provided no indication that a stream channel was present within the subject property. It has been determined that the ephemeral streams listed in Section II D, above, exhibit ephemeral flow, are not waters of the United States per 33 CFR 328.3(b)(3), and are not subject to regulation under Section 404.

One point-in-time data source from 12 March 2020, with a corresponding APT report, was included in the evaluation for the excluded ephemeral swales listed in Section II.D. (Swales 1 and 2). As described above, conditions were normal with moderate wetness in the wet season on 12 March 2020. Little to no flow was observed during a site investigation conducted on this date. It has been determined that the swales listed in Section II.D., above, exhibit ephemeral flow, are not waters of the United States per 33 CFR 328.3(b)(3), and are not subject to regulation under Section 404.

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



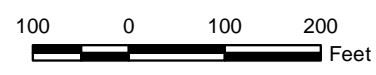
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SOURCE: CINCINNATI AREA GIS (CAGIS) HAMILTON COUNTY, OHIO IMAGERY ORTHOPHO METADATA \ AERIAL IMAGERY DATE: WINTER 2019.

**LEGEND**

Approximate Site Location	Freshwater Pond (Perimeter Estimated)
Delineated Wetland	Identified Culvert
Wetland Test Pit	Channel
Photo Location and Direction	Swale
Off-Site Stormwater Basin	



**CEC**  
**Civil & Environmental Consultants, Inc.**  
 5899 Montclair Boulevard - Cincinnati, OH 45150  
 513-985-0226 - 800-759-5614  
 www.cecinc.com

VEGA AMERICAS - MASON HEADQUARTERS  
 STATE ROUTE 741  
 WARREN COUNTY, MASON, OHIO

**RESOURCE LOCATION MAP**

DRAWN BY: LAH	CHECKED BY: CAS	APPROVED BY: CAS*	FIGURE NO: 3 (Revised)
DATE: JUNE 26, 2020	DWG SCALE: 1" = 200'	PROJECT NO: 300-622	

Signature on File \*