



**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): 7/28/2020  
 ORM Number: LRH-2020-521-HOC  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: Ohio City: York and Dover Townships  
 County/Parish/Borough: Athens  
 Center Coordinates of Review Area: Latitude 39.381247 Longitude -82.176475

**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.

**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
Ditch 1	465	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 a ditch with ephemeral flow that was excavated in uplands. Ditch 1 does not relocate a tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland. Ditch 1 is not considered a water of the United States per 33 CFR 328.3(b)(5).
Ditch 2	160	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 2 is a ditch with ephemeral flow that was excavated in uplands. Ditch 2 does not relocate a tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland. Ditch 2 is not considered a water of the United States per 33 CFR 328.3(b)(5).
Ditch 3	330	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 3 is a ditch with ephemeral flow that was excavated in uplands. Ditch 3 does not relocate a tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland. Ditch 3 is not considered a water of the United States per 33 CFR 328.3(b)(5).
Ditch 4	330	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 4 is a ditch with ephemeral flow that was excavated in uplands. Ditch 4 does not relocate a tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland. Ditch 4 is not considered a water of the United States per 33 CFR 328.3(b)(5).

<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	
Wetland 1 - PEM	2.35	acre(s)	(b)(1) Non-adjacent wetland.	The lateral limits of Wetland 1 - PEM were established by the 1987 Wetland Delineation Manual and applicable Regional Supplement. The closest jurisdictional stream is Hamley Run, which is located approximately 577 linear feet south of Wetland 1 - PEM. Wetland 1 - PEM 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 1 - PSS	0.35	acre(s)	(b)(1) Non-adjacent wetland.	The lateral limits of Wetland 1 - PSS were established by the 1987 Wetland Delineation Manual and applicable Regional Supplement. The closest jurisdictional stream is Hamley Run, which is located approximately 1,012 linear feet south of Wetland 1 - PSS. Wetland 1 - PSS 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 2	0.30	acre(s)	(b)(1) Non-adjacent wetland.	The lateral limits of Wetland 2 were established by the 1987 Wetland Delineation Manual and applicable Regional Supplement. The closest jurisdictional stream is Hamley Run, which is located approximately 1,187 linear feet south of Wetland 2. 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. 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: [Bill Thiesen Industrial Park Site Readiness Study – Wetland Delineation completed by Stantec Consulting Service, Inc. dated 2018](#)

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: Wetland and Waterbody Delineation Map (Figure 4) & Photograph Log (Appendix C), JD Report 2018
- 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: NRCS Soil Survey Data (Figure 2), JD Report 2018
- USFWS NWI maps: National Wetlands Inventory Map (Figure 3), JD Report 2018
- USGS topographic maps: Project Location Map (Figure 1); JD Report 2018

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

Data Source (select)	Name and/or date and other relevant information
USGS Sources	NHD, Huntington District Regulatory Viewers
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Wetland Determination Forms (Appendix B), JD Report 2018
Other Sources	ORAM Forms (Appendix B), JD Report 2018
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. One (1) point-in-time data source dated 23 August 2018, with a corresponding antecedent precipitation tool (APT) report, is included in the evaluation for the excluded features listed in Section II D. According to the APT report for 23 August 2018, wetter than normal conditions were observed during the WebWIMP dry season with a Palmer Drought Severity Index Value of severe wetness. The 30-day rolling total for precipitation was higher than the 30-year normal range. Even at a higher than normal precipitation range, Wetland 1 – PEM, Wetland 1 – PSS, and Wetland 2 still did not meet the definition of an adjacent wetland. Wetland 1 – PEM, Wetland 1 – PSS, and Wetland 2 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), or (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.

Additionally, it has been determined that Ditches 1-4 are not waters of the United States per 33 CFR 328.3(a)(1) or (2), were not constructed in an adjacent wetland per 33 CFR 328.2 (a)(4), are not considered a water of the United States per 33 CFR 328.3(b)(5), and are not subject to regulation under Section 404.

**C. Additional comments to support AJD:** The property is located outside of the FEMA 100 year floodplain.