



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): 13 May 2021
 ORM Number: LRH-2020-740-WAL
 Associated JDs: N/A
 Review Area Location¹: State/Territory: OH City: Wooster County/Parish/Borough: Wayne County
 Center Coordinates of Review Area: 40.84151°N, 81.9061°W

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)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 2	110	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 2 (UNT to Little Apple Creek) is an intermittent, indirect tributary to the Walhonding River, an (a)(1) water, at a location outside of the review area. Stream 2 contributes intermittent surface water flow indirectly to the Walhonding River, an (a)(1) water, in a typical year (reference Section III B of this AJD form).

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

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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Excluded waters ((b)(1) – (b)(12)) ⁴ :			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland 1	0.06 acres	(b)(1) Non-adjacent wetland.	Wetland 1 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	0.17 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. Reference Section III B of this AJD form for typical year assessments.
Wetland 3	0.03 acres	(b)(1) Non-adjacent wetland.	Wetland 3 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.
Stream 1	105 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 1 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments.
Stream 3	465 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 3 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments..
Stream 4	200 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 4 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments.

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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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: [Wetland and Stream Delineation Report for the Wooster Innovation Park, prepared by LaBella Associates, D.P.C, dated 29 September 2019 and 16 April 2021 \(Report\)](#). 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: [Aerial and Other: Appendix A: Figures, Figure 4 - Overview Map, Appendix A: Figures, Figure 5 – Wetland and Stream Delineation Survey, Report. Other: Appendix C: Photo Log, Report.](#)
- Corps Site visit(s) conducted on: Date(s). 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: [Appendix D: Hydric Soil Map, Report.](#)
- USFWS NWI maps: [Appendix A: Figures, Figure 2: NWI-Mapped Resources, Report](#)
- USGS topographic maps: [USGS 7.5 minute topo map: Wooster, Ohio, Figure 1: USGS Site Location, Report.](#)

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	Corps Regulatory GIS Viewers
State/Local/Tribal Sources	N/A.
Other Sources	N/A
Other Sources	Appendix B: Data Forms, Report

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 sources dated 13-17 July 2020, with a corresponding antecedent precipitation tool (APT) report, is included in the evaluation for the features listed in Section II D, as applicable. According to the APT report for 13-17 July 2020, drier than normal conditions were observed during the WebWIMP dry season with a Palmer Drought Severity Index Value of mild wetness. The 30-day rolling total for precipitation was below the 30-year normal range. The antecedent precipitation condition is considered “drier than normal” for that point in time.

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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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On 16 July 2020, Stream 2 did not exhibit evidence of flow within the stream channel during normal APT report conditions. Field indicators of intermittent flow was observed in Stream 2 and included clearly defined bed and bank and an OHWM. Based on the submitted information, Stream 2 contributes intermittent flow downstream indirectly to the Walhonding River, an (a)(1) water, in a typical year. Therefore, Stream 2 is an (a)(2) water.

Based on the submitted information, Streams 1, 3, and 4 exhibit ephemeral flow. On 16 July 2020, Streams 1, 3, and 4 did not exhibit flow within the stream channel which corresponds with the APT report conditions for an ephemeral feature during normal conditions. Therefore, Streams 1, 3, and 4 meet the definition of "ephemeral." Stream 1, 3, and 4 are not considered a water of the United States per 33 CFR 328.3(b)(3).

Wetlands 1-3 do not meet the definition of an adjacent wetland, as it does not 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. Wetlands 1-3 are all located over 500 linear feet from Stream 2 (UNT to Little Apple Creek) an a(2) water. Due to the remote location of Wetlands 1-3, even during wetter than normal conditions, it would not be expected to be inundated by flooding from an (a)(1-3) water in a typical year. Therefore, Wetlands 1-3 are not jurisdictional waters of the United States per 33 CFR 328.3(b)(1).

- C. Additional comments to support AJD:** The wetlands are located outside of the FEMA 100 year floodplain.

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.