



**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): 1/14/2021  
 ORM Number: LRH-2020-767-TUS-UNT to Hudson Run  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: Ohio City: Norton County/Parish/Borough: Summit  
 Center Coordinates of Review Area: Latitude 41.032348 Longitude -81.659906

**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 2	1,590	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 2 is an intermittent tributary to Hudson Run offsite, an (a)(2) water, an indirect tributary to the Tuscarawas River, an (a)(1) navigable water, at a location outside of the area of interest (AOI), 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
Open Water-2	1.42	acre(s)	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Open Water-2 is an impoundment of Stream 2, an intermittent (a)(2) water, that contributes flow indirectly to the Tuscarawas River, an (a)(1) navigable water in a typical year (reference Section III B of this AJD form).
Open Water-3	0.19	acre(s)	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Open Water-3 is an impoundment of Stream 2, an intermittent (a)(2) water, that contributes flow indirectly to the Tuscarawas River, an (a)(1) navigable water in a typical year (reference Section III B of this AJD form).

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland-C	0.09	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland-C is an (a)(4) water that directly abuts Open Water 2, an (a)(3) water.
Wetland-D	0.07	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland-D is an (a)(4) water that directly abuts Stream 2, an (a)(2) water.
Wetland-E	0.08	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland-E is an (a)(4) water that directly abuts Stream 2, an (a)(2) water.
Wetland-F	0.05	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland-F is an (a)(4) water that directly abuts Stream 2, an (a)(2) water.
Wetland-G	0.01	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland-G is an (a)(4) water that directly abuts Stream 2, an (a)(2) water.

**D. Excluded Waters or Features**



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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	
Stream 1	44	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), is not considered a water of the United States per 33 CFR 323.8(b)(3), and is not subject to regulation under Section 404.
Swale 1	106	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Swale 1 is an ephemeral feature and meets the definition of “ephemeral” in paragraph (c)(3), is not considered a water of the United States per 33 CFR 323.8(b)(3), and is not subject to regulation under Section 404.
Swale 2	117	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Swale 2 is an ephemeral feature and meets the definition of “ephemeral” in paragraph (c)(3), is not considered a water of the United States per 33 CFR 323.8(b)(3), and is not subject to regulation under Section 404.
Swale 3	119	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Swale 3 is an ephemeral feature and meets the definition of “ephemeral” in paragraph (c)(3), is not considered a water of the United States per 33 CFR 323.8(b)(3), and is not subject to regulation under Section 404.
Swale 4	48	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Swale 4 is an ephemeral feature and meets the definition of “ephemeral” in paragraph (c)(3), is not considered a water of the United States per 33 CFR 323.8(b)(3), and is not subject to regulation under Section 404.
Drainage Way	592	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).	The Drainage Way does not contribute flow to an (a)(1) water in a typical year, is an artificial (manmade) feature constructed entirely in uplands, and is not subject to regulation under Section 404.
Wetland-A	0.22	acre(s)	(b)(1) Non-adjacent wetland.	Wetland-A 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.
Wetland-B	0.25	acre(s)	(b)(1) Non-adjacent wetland.	Wetland-B 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

<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
			33 CFR 328.3(b)(1), and is not subject to regulation under Section 404.
Wetland-H	0.60	acre(s)	(b)(1) Non-adjacent wetland Wetland-H 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.
Open Water-1	0.19	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year. Open Water-1 does not contribute flow to an (a)(1) water, is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year, is an artificial (manmade) feature constructed entirely in uplands, is not an impoundment of a (a)(1)-(a)(3) water, 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: [Wetland and Water Resource Delineation Report, 3727 Golf Course Drive, Norton, Ohio 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: [Aerial and Other: Appendix C - Site Photographs \(3727 Golf Course Drive, August 2020\), HistoricalAerials.com \(2017, 2015, 2013, 2011, 2010, 2009, 2006, 2004, 2003, 2002, 2000, 1994, 1982, 1969, 1957, 1952\).](#)

Corps site visit(s) conducted on: [N/A](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [Figure 4 - Soil Survey Map \(NRCS Soil Survey Map\) \(3727 Golf Course Drive, August 2020\)](#)

USFWS NWI maps: [Figure 2 - National Wetland Inventory \(NWI\) Map \(3727 Golf Course Drive, August 2020\)](#)

USGS topographic maps: [Figure 3 - Topographic Map \(3727 Golf Course Drive, August 2020\)](#)

**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="#">N/A.</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>



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Data Source (select)	Name and/or date and other relevant information
<a href="#">NOAA Sources</a>	N/A.
<a href="#">USACE Sources</a>	N/A
<a href="#">State/Local/Tribal Sources</a>	N/A
<a href="#">Other Sources</a>	<a href="#">Appendix B - Field Data Sheets (USACE Wetland Determination Data Forms) in referenced report.</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. One (1) point-in-time data source, 23 March 2020 (Wet Season), with a corresponding antecedent precipitation tool (APT) report, were included in the evaluation for the features on-site, as applicable. The APT was utilized to determine typical year for point-in-time data sources. Stream flow was assessed on 23 March 2020. Based on the APT, 23 March 2020 is included during the WebWIMP wet season and has a Palmer Drought Severity Index of moderate wetness. The 30-day rolling total for precipitation was lower than the 30-year normal range. Therefore, site conditions are lower than the typical year conditions. Even at a lower than normal range, Stream 2 included a clearly defined bed and bank, coarse bed material (cobble and gravel), and consisted of water at some locations. Based on the submitted information, Stream 2 contributes intermittent flow downstream indirectly to the Tuscarawas River, an (a)(1) water, in a typical year. Therefore, Stream 2 is an (a)(2) water. Additionally, by utilizing aerial imagery from 2017 and 1957, Open Water-2 and Open Water-3 are impoundments of Stream 2, an (a)(2) water, and contribute surface water flow indirectly to the Tuscarawas River, an (a)(1) water, in a typical year. Therefore, Open Water-2 and Open Water-3 are (a)(3) waters. Even at a lower than normal precipitation range a hydrological surface connection between Stream 2, an (a)(2) water, and Wetland D, Wetland E, Wetland F, and Wetland G was observed. Additionally, even at a lower than normal precipitation range a hydrological surface connection between Open Water 2, an (a)(3) water, and Wetland C was observed. Therefore, Wetland C, Wetland D, Wetland E, Wetland F, and Wetland G are (a)(4) waters. Based on aerial imagery, Open Water-1 is an artificial (manmade) feature constructed entirely in uplands. Additionally, Open Water 1 does not contribute flow to an (a)(1) water, is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year, and is not an impoundment of a (a)(1)-(a)(3) water.

**C. Additional comments to support AJD:** The project is not located within the FEMA 100-year floodplain.