



**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): 10/14/2020
 ORM Number: 2020-768-OLR-Bartholomew Run
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Ohio City: Liberty Township County/Parish/Borough: Delaware
 Center Coordinates of Review Area: Latitude 40.169147 Longitude -83.090947

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)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
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

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 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)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland A	0.08	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	0.15	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 1	144	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Swale 1 is a erosional feature in the landscape that meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for a typical year assessment.
Open Water 1	0.07	Acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff	Based on historic aerials, this open water stormwater feature was created in uplands as part of an adjacent residential development.

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 Skilkengold Development LLC, submitted a Preliminary Jurisdictional Waters Determination Report for Seldom Seen Road Liberty Township, Delaware County, Ohio dated September 10, 2020 \(JD, Sept 2020\).](#)

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: Figure 3: Preliminary Jurisdictional Waters Determination Map and Appendix B: Site Photographs 1-18 dated 24 August 2020 \(JD, Sept 2020\)-](#)

Corps site visit(s) conducted on: [Date\(s\).](#)

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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- 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 A NRCS Soils Report \(JD, Sept 2020\)](#)
- USFWS NWI maps: [Figure 2: Background Environmental Data Map \(JD, Sept 2020\)](#)
- USGS topographic maps: [USGS 7.5 Minute Topographic Map, Powell, Ohio Quad \(JD, Sept 2020\)](#).

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrography Dataset
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	ORM Aquatic Resources Layer
State/Local/Tribal Sources	N/A.
Other Sources	Historic Aerial Photos

B. Typical year assessment(s): One (1) point-in-time data source from 24 August 2020, with a corresponding APT report, was included in the evaluation for Swale 1 listed in Section II.D. According to the APT report for 24 August 2020, drier than normal conditions were observed during the dry season with a PSDI Value of 1.17 (mild wetness) and an antecedent precipitation condition score of 9. The antecedent precipitation condition is considered “drier than normal” for that point in time. Swale 1 exhibits characteristics of an erosional feature and did not have flow during a site investigation conducted on this date. It has been determined that Swale 1, listed in Section II.D., above, exhibits ephemeral flow, is not a water of the United States per 33 CFR 328.3(b)(3), and is not subject to regulation under Section 404.

C. Additional comments to support AJD: [N/A](#)