



**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): 11/24/2020  
 ORM Number: LRH-2020-792-SCR-Hargus Creek  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: Ohio City: Circleville County/Parish/Borough: Pickaway  
 Center Coordinates of Review Area: Latitude 39.626738 Longitude -82.887060

**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
Hargus Creek	513	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Hargus Creek is a perennial tributary that contributes surface water flow directly to the Scioto River, an (a)(1) water, within a typical year. Reference Section III D for the typical year assessment.
Stream 1	87	linear feet	(a)(2) Intermittent tributary contributes	Stream 1 is an intermittent tributary that contributes surface water flow to the Scioto River, an (a)(1) water, within a typical year. Stream 1 drains directly

<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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Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
		surface water flow directly or indirectly to an (a)(1) water in a typical year.	into Stream 3 on-site. Reference Section III D for the typical year assessment.
Stream 3	448	linear feet (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 3 is an intermittent tributary that contributes surface water flow to the Scioto River, an (a)(1) water, within a typical year. Stream 3 drains directly to Hargus Creek off-site. Reference Section III D for the typical year assessment.
Stream 8	104	linear feet (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 8 is an intermittent tributary that contributes surface water flow to the Scioto River, an (a)(1) water, within a typical year. Stream 8 drains directly to Hargus Creek on-site. Reference Section III D for the typical year assessment.
Stream 9	128	linear feet (a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 9 is a perennial tributary that contributes surface water flow to the Scioto River, an (a)(1) water, within a typical year. Stream 9 drains directly to Hargus Creek on-site. Reference Section III D for the typical year assessment.

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
Wetland A.2	1.006	acre(s) (a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland A.2 meets the three (3) indicators of a wetland and directly abuts an (a)(3) water off-site (Hargus Lake).
Wetland B	0.025	acre(s) (a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland B meets the three (3) indicators of a wetland and directly abuts an (a)(2) water on-site (Hargus Creek).
Wetland C	0.403	acre(s) (a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland C meets the three (3) indicators of a wetland and directly abuts an (a)(2) water on-site (Hargus Creek).



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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland E.1	0.101	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland C meets the three (3) indicators of a wetland and directly abuts an (a)(2) water on-site (Stream 9).
Wetland G	0.123	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland G meets the three (3) indicators of a wetland and directly abuts an (a)(2) water on-site (Stream 8).
Wetland H	0.373	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland H meets the three (3) indicators of a wetland and directly abuts an (a)(2) water on-site (Stream 3).
Wetland I	0.032	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland I meets the three (3) indicators of a wetland and directly abuts an (a)(2) water on-site (Stream 9).

**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
Stream 2	68	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 2 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream 4	32	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 D for typical year assessments.
Stream 5	111	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 5 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream 6	58	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 6 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Stream 7	446	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 7 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III D for typical year assessments.
Wetland A.1	0.159	acre(s)	(b)(1) Non-adjacent wetland.	Wetland A.1 does not abut an (a)(1), (a)(2), or (a)(3) water, is not inundated by flooding from an

<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)(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 D	0.331	acre(s)	(b)(1) Non-adjacent wetland. Wetland D 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 E.2	0.012	acre(s)	(b)(1) Non-adjacent wetland. Wetland E.2 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 F.1	0.019	acre(s)	(b)(1) Non-adjacent wetland. Wetland F.1 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 F.2	0.015	acre(s)	(b)(1) Non-adjacent wetland. Wetland F.2 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 F.3	0.007	acre(s)	(b)(1) Non-adjacent wetland. Wetland F.3 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 F.4	0.076	acre(s)	(b)(1) Non-adjacent wetland. Wetland F.4 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

**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: [Lawhon & Associates, Inc.](#), on behalf of the Ohio Department of Natural Resources (ODNR), submitted a delineation report for the Hargus Lake Dam Rehabilitation Project (JD, Oct 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: Figures 3a and 3b: Ecological Resources Map and Appendix A: Site Photographs 1-118, dated July 27-28, 2020 \(JD, Oct 2020\)](#)

Corps site visit(s) conducted on: [23 November 2020](#)



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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: [Figure 6: Soils Map \(JD, Oct 2020\)](#)
- USFWS NWI maps: [Figure 4: NWI/NHD Map \(JD, Oct 2020\)](#)
- USGS topographic maps: [Figure 2: USGS Topographic Map Ashville and Circleville Quads \(JD, Oct 2020\)](#)

**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="#">National Hydrography Dataset</a>
<a href="#">USDA Sources</a>	N/A.
<a href="#">NOAA Sources</a>	N/A.
<a href="#">USACE Sources</a>	<a href="#">ORM Aquatic Resources Layer</a>
<a href="#">State/Local/Tribal Sources</a>	N/A.
<a href="#">Other Sources</a>	N/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 point-in-time data source, dated 28 July 2020, with a corresponding APT report, was included in the evaluation for Hargus Creek and Streams 1-9. According to the APT report for 28 July 2020, normal conditions were observed during the dry season with a PSDI Value of 1.3 (mild wetness) and an ARC score of 11 . The antecedent precipitation condition is considered “normal” for that point in time. On 28 July 2020, during normal conditions of the dry season, continuous flow was observed within Hargus Creek and Stream 9. The photographs show some small areas of low pooling within the intermenttent streams. These observations are expected for perennial and intermittent streams in the dry season when there is mild wetness. There was no flow or presence of pooling observed within Streams 2, 4, 5, 6, 7, which is characteristic of ephemeral streams provided a recent rainfall event had not occurred. It has been determined that the ephemeral streams listed in Section II D, above, exhibits 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 or provide additional discussion as appropriate.](#)