



**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): 1/4/2021

ORM Number: LRH-2020-872-MUS-South Fork Licking River

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Ohio City: Jersey Township County/Parish/Borough: Licking

Center Coordinates of Review Area: Latitude 40.085586 Longitude -82.726025

**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)<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
South Fork Licking River	2,096	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
			The South Fork Licking River is a perennial tributary that contributes surface water flow indirectly to the Muskingum River, an (a)(1) water, within a typical year. Reference Section III D for the typical year assessment.

<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
N/A.	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 C	0.92	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 (South Fork Licking River).

**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
Wetland A	2.70	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	0.48	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.
Stream 1	672	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 D 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: [EMH&T, on behalf of the New Albany Company, submitted an Investigation of Waters of the United States for the Bright Property Site dated October 15, 2020 \(JD, Oct 2020\).](#)

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: Exhibit 6: Bright Property Delineation Map and Site Photographs 1-18 dated October 5, 2020 \(JD, Oct 2020\)](#)

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

<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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- 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: [Exhibit 3: Bright Property Soil Survey Map \(JD, Oct 2020\)](#)
- USFWS NWI maps: [Exhibit 5: Bright Property National Wetland Inventory Map \(JD, Oct 2020\)](#)
- USGS topographic maps: [Exhibit 2: Bright Property USGS Topographic Map \(JD, Oct 2020\)](#).

**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):** [One \(1\) point-in-time data source from October 5, 2020, with a corresponding APT report, was included in the evaluation for Stream 1 and the South Fork Licking River listed in Sections II.C and II.D. According to the APT report for October 5, 2020, normal conditions were observed during the wet season with mild wetness and an antecedent precipitation condition score of 11. The antecedent precipitation condition is considered “normal” for that point in time. On October 5, 2020, during normal conditions of the wet season, continuous flow was observed within the South Fork Licking River. There was no flow or presence of pooling observed within Stream 1, which is characteristic of ephemeral streams provided a rainfall event had not recently occurred. It has been determined that the ephemeral stream 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](#)