



**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): 1/26/2021
 ORM Number: LRH-2021-00056-TUS-Wolf Creek
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Ohio City: Norton County/Parish/Borough: Summit
 Center Coordinates of Review Area: Latitude 41.029224 Longitude -81.615145

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.	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.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
WC-01	1,030	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	WC-01 is an intermittent tributary to the Tuscarawas River offsite, an (a)(1) navigable water, at a location outside of the JD review area, in a typical year (reference Section III B of this AJD form).
WC-02	2,748	linear feet	(a)(2) Perennial tributary	WC-02 is a perennial tributary to the Tuscarawas River offsite, an (a)(1) navigable water, at a location

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
		contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	outside of the JD review area, 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
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
WB-03a	12.05 acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.	WB-03a is an (a)(4) water that is physically separated from an (a)(2) water only by an artificial dike, barrier, or similar artificial structure so long as that structure allows for a direct hydrologic surface connection between the wetland and the water identified in 33 CFR 328.3 (a)(1),(2), (3) in a typical year, such as through a culvert, flood or tide gate, pump, or similar artificial feature, and is a water of the United States per 33 CFR 328.3(a)(4).
WB-03b	11.702 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	WB-03b is an (a)(4) water that directly abuts WC-01, an (a)(2) water.
WB-03c	3.594 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	WB-03c is an (a)(4) water that directly abuts WC-01, an (a)(2) water.
WB-04	0.461 acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.	WB-04 is an (a)(4) water that is physically separated from an (a)(2) water only by an artificial dike, barrier, or similar artificial structure so long as that structure allows for a direct hydrologic surface connection between the wetland and the water identified in 33 CFR 328.3 (a)(1),(2), (3) in a typical year, such as through a culvert, flood or tide gate, pump, or similar artificial feature, and is a water of the United States per 33 CFR 328.3(a)(4).



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
WD-01	0.427	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	WD-01 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.
WD-02	0.984	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	WD-02 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.
WB-01	0.744	acre(s)	(b)(1) Non-adjacent wetland.	It has been determined that WB-01 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.
WB-02	0.687	acre(s)	(b)(1) Non-adjacent wetland.	It has been determined that WB-02 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.

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
WB-03d	0.082	acre(s)	(b)(1) Non-adjacent wetland.	It has been determined that WB-03d 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.

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: [Water Resources Delineation Report, City of Barberton and Norton Project, Summit County, Ohio dated January 2021](#)

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 – Wetland Photographs, Appendix E – Watercourse Photographs \(City of Barberton and Norton Project, January 2021\), HistoricalAerials.com \(2017, 2015, 2013, 2011, 2010, 2009, 2006, 2004, 2003, 2002, 2000, 1994, 1982, 1970, 1969, 1966, 1957, 1952\).](#)

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: [Exhibit 4 – NRCS Soils \(NRCS Soil Survey Map\) \(City of Barberton and Norton Project, January 2021\)](#)

USFWS NWI maps: [N/A](#)

USGS topographic maps: [Exhibit 1 – Project Location and USGS Topographic Mapping \(City of Barberton and Norton Project, January 2021\)](#)

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	N/A
State/Local/Tribal Sources	N/A
Other Sources	Appendix A and B - Field Data Sheets (USACE Wetland Determination Data Forms and ORAM Functional Assessment Forms) in referenced 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 source, 14 December 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](#)



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

typical year for point-in-time data sources. Stream flow was assessed on 14 December 2020. Based on the APT, 14 December 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, WC-01 and WC-02 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, WC-01 contributes intermittent flow downstream, and WC-02 contributes perennial flow downstream, indirectly to the Tuscarawas River, an (a)(1) water, in a typical year. Therefore, WC-01 and WC-02 are (a)(2) waters. Additionally, even at a lower than normal precipitation range a hydrological surface connection between WC-02, an (a)(2) water, and WB-03a and WB-04 was observed. Therefore, WB-03a and WB-04 are (a)(4) waters. Also, even at a lower than normal precipitation range a hydrological surface connection between WC-01, an (a)(2) water, and WB-03b and WB-03c was observed. Therefore, WB-03b and WB-03c are (a)(4) waters. Based on aerial imagery, WD-02 and WD-01 are artificial (manmade) features constructed entirely in uplands.

C. Additional comments to support AJD: The project is located within the FEMA 100-year floodplain.