



**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): 4/21/2021

ORM Number: LRH-2021-233-GMR

Associated JDs: N/A

Review Area Location¹: State/Territory: Ohio City: Green Township County/Parish/Borough: Hamilton

Center Coordinates of Review Area: Latitude 39.2017 Longitude -84.6217

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
Stream 5 Briarly Creek	1,234	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 5 is a perennial tributary to Taylor Creek, an (a)(2) water and direct tributary to the Great Miami River, an (a)(1) TNW, in a typical year (reference Section III B of this AJD form) at a location outside the area of interest (AOI), (reference Section III B of this AJD form).
Stream 2	718	linear feet	(a)(2) Intermittent tributary contributes	Stream 2 is an intermittent tributary to Briarly Creek, an (a)(2) water and direct tributary to the Great Miami River, an (a)(1) TNW, in a typical year

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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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.	(reference Section III B of this AJD form) at a location outside the AOI, (reference Section III B of this AJD form).
Stream 3 Lower Reach	389	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 to Briarly Creek, an (a)(2) water and direct tributary to the Great Miami River, an (a)(1) TNW, in a typical year (reference Section III B of this AJD form) at a location outside the AOI, (reference Section III B of this AJD form).
Stream 6	1,150	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 6 is an intermittent tributary to Briarly Creek, an (a)(2) water and direct tributary to the Great Miami River, an (a)(1) TNW, in a typical year (reference Section III B of this AJD form) at a location outside the AOI, (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.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland 1	0.37	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland 1 directly abuts Stream 3 an (a)(2) water with intermittent flow that is an indirect tributary to the Great Miami River, an (a)(1) TNW, in a typical year (reference Section III B of this AJD form) at a location outside the AOI, (reference Section III B of this AJD form).

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Stream 1	535	linear feet	(b)(3) Ephemeral feature, including an ephemeral	Stream 1 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments.

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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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
		stream, swale, gully, rill, or pool.	
Stream 3 Upper Reach	117	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Stream 3 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments.
Stream 4	538	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 B of this AJD form for typical year assessments.
Stream 7	175	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 B of this AJD form 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: [Shadow Hawk Request for Approved Jurisdictional Determination Report, dated 12 March 2021.](#)

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: Within referenced JD report.](#)
- Corps site visit(s) conducted on: [Date\(s\).](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Hamilton County, Ohio](#)
- USFWS NWI maps: [Title\(s\) and/or date\(s\).](#)
- USGS topographic maps: [1:24K Cincinnati West, OH Quad.](#)

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	USACE Wetland Data Forms and ORAM Forms of referenced report.

B. Typical year assessment(s): [A typical year occurs over a rolling 30-year period and includes the analysis of precipitation and other climatic variables to establish a normal period range \(seasonally or annually\) for a](#)



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specific geographic region where the aquatic resource occurs. One (1) point-in-time data source, 11 March 2021, with a corresponding APT report, were included in the evaluation for the excluded features on-site. The antecedent precipitation tool was utilized to determine typical year for point-in-time data sources. Wetland adjacency was assessed on 11 March 2021. Based on the antecedent precipitation tool, 11 March 2021 is in the wet season has has a PDSI of (0.0) normal. The 30-day rolling total for precipitation was within the 30-year normal range on 11 March 2021. Additionally, the ephemeral features showed slight flows due to recent rains.

- C. Additional comments to support AJD:** A small portion of the southwest corner of the AJD boundary is located within Zone A (1% annual chance of flooding). This incorporates the boundary of Stream 5. No other features are located within the floodplain.