



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): 4/19/2021  
ORM Number: LRH-2021-46-TUS  
Associated JDs: N/A  
Review Area Location<sup>1</sup>: State/Territory: OH City: Green County: Summit  
Center Coordinates of Review Area: 40.97545°N, 81.46893°W

**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

**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
Stream 3	706 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 3 (Unnamed Tributary to the Tuscarawas River) is a perennial, indirect tributary to the Tuscarawas River, an (a)(1) water, at a location outside of the review area. Stream 3 contributes perennial surface water flow indirectly to the Tuscarawas River, an (a)(1) water, 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

<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 independent 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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Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland F	0.53 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland F directly abuts Stream 3, an Unnamed Tributary to the Tuscarawas River, an (a)(2) water. Reference Stream 3 above.
Wetland G	0.20 acre	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland G directly abuts Stream 3, an Unnamed Tributary to the Tuscarawas River, an (a)(2) water, at a location outside of the review area. Reference Stream 3 above.

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:

Excluded waters ((b)(1) – (b)(12)) <sup>4</sup> :			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Stream 1	288 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). Stream 1 is not considered a water of the United States per 33 CFR 328.3(b)(3), and is not subject to regulation under Section 404.
Stream 2	97 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). Stream 2 is not considered a water of the United States per 33 CFR 328.3(b)(3), and is not subject to regulation under Section 404.
Wetland A	0.054 acre	(b)(1) Non-adjacent wetland.	Wetland A 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.
Wetland B	0.0081 acre	(b)(1) Non-adjacent wetland.	Wetland B 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.
Wetland C	0.095 acre	(b)(1) Non-adjacent wetland.	Wetland C 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.
Wetland D	0.017 acre	(b)(1) Non-adjacent wetland.	Wetland D 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.
Wetland E	1.15 acres	(b)(1) Non-adjacent wetland.	Wetland E 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.

<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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Wetland H	0.20 acre	(b)(1) Non-adjacent wetland.	Wetland H 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.
Wetland I	0.033 acre	(b)(1) Non-adjacent wetland.	Wetland I 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: [Wetland and Watercourse Delineation Report, Proposed Project 619 Development, 1541 East Turkeyfoot Lake Road, Green, Ohio dated 7 January 2021 and additional information received on 15 March 2021 \(Report, 2021\)](#)

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: Appendix A, Figure 5 \(Report, 2021\) and Figure 6 – Revised Field Data Location Map \(Report, 2021\)](#)

[other: Appendix C, Photographic Documentation \(Report, 2021\)](#)

Corps Site visit(s) conducted on: *Date(s)*.

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, Figure 3 \(Report, 2021\)](#)

USFWS NWI maps: [Appendix A, Figure 4 \(Report, 2021\)](#)

USGS topographic maps: [Appendix A, Figure 2 \(Report, 2021\)](#)

**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	<a href="#">Corps Regulatory GIS Viewers</a>
State/Local/Tribal Sources	N/A.
Other Sources	<a href="#">Appendix B – Wetland Data forms (Report, 2021)</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](#)

<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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(seasonally or annually) for a specific geographic region where the aquatic resource occurs. Two (2) point-in-time data sources dated 18 November 2020 and 11 March 2021, each with a corresponding antecedent precipitation tool (APT) report, are included in the evaluation for the features listed in Section II D, as applicable. According to the APT report for 18 November 2020, normal conditions with an antecedent condition calculation of 14 were observed during the WebWIMP wet season with a Palmer Drought Severity Index Value of mild wetness. The 30-day rolling total for precipitation was within the 30-year normal range. According to the APT report for 11 March 2021, drier than normal conditions with an antecedent condition calculation of 7 was observed during the WebWIMP wet season with a Palmer Drought Severity Index value of mild drought. The 30-day rolling total for precipitation was below the 30-year normal range. On 18 November 2020, Stream 3 exhibited flow within the stream channel which corresponds with the APT report conditions. Stream 3 is an unnamed tributary to the Tuscarawas River. Field indicators of perennial flow were observed in Stream 3, including a clearly defined bed and bank. Based on the submitted information, Stream 3 contributes perennial flow downstream indirectly to the Tuscarawas River, an (a)(1) water, in a typical year. Therefore, Stream 3 is an (a)(2) water. Wetlands F and G directly abut Stream 3. Therefore, Wetlands F and G are (a)(4) waters.

Based on the submitted information, Streams 1 and 2 exhibit ephemeral flow. On 18 November 2020, Streams 1 and 2 exhibited minimal flow within the stream channel which correspond with the APT report conditions for an ephemeral feature. Therefore, Streams 1 and 2 do not provide intermittent or perennial flow downstream to an (a)(1) water in a typical year.

Wetlands A, B, C, D, E, H, and I do not abut a water identified in 33 CFR 328.3(a)(1), (2), or (3), are not inundated by flooding from a water identified in 33 CFR 328.3(a)(1), (2), or (3) in a typical year, are not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature, and are not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by an artificial dike, barrier, or similar artificial structure. Therefore, Wetlands A, B, C, D, E, H, and I are not jurisdictional waters of the United States per 33 CFR 328.3(b)(1).

- C. Additional comments to support AJD:** According to the National Flood Hazard FEMA map, the site is not located within the 100-year floodplain.

<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.