



**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): 1/19/2021

ORM Number: LRH-2020-00127-SCR

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 39.8404 Longitude -82.9092

**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
N/A.	N/A.	N/A.	N/A.

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
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 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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**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
Ditch 1	0.34	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The former Ohio-Erie Canal with perennial flow historically was present along the north side of Rohr Road in the AJD Review Area. The 1955 aerial photograph shows the majority of the former canal was filled at this location. Historical aerial photography indicates that fill activities in the majority of the former canal pre-dated Section 404 of the Clean Water Act. The 1955, 1994, and 2019 aerial photographs do not indicate the presence of a tributary within or entering the AJD Review Area. Ditch 1 is a constructed or excavated channel in upland used to convey stormwater runoff from land north of Rohr Road that was industrialized rapidly after 1994. Ditch 1 appears to be slightly offset to the north of any potential canal remnants (obscured by trees) that are evident in the 1955 and 1994 aerial photographs. Ditch 1 meets the definition of “ditch” in 33 CFR 328.3(b)(5).

**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: [The Ohio Department of Transportation \(ODOT\), Level 1 Ecological Survey Report \(ESR\), FRA-317-5.09, PID 109493, 7 January 2020, and supplemental information submitted via e-mail on 6 January 2021.](#)

This information is sufficient for purposes of this AJD.

Rationale: [The information provided by or on behalf of the requestor accurately reflects the district’s conclusions on the aquatic resource within the geographic boundary of the AJD Review Area.](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

Photographs: [Aerial and Other: Appendices 1 and 2 of the ESR for FRA-317-5.09, PID 109493, including supplemental information \(1955 aerial photograph\) submitted via e-mail on 6 January 2021.](#)

Corps site visit(s) conducted on: [N/A](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [PJD for LRH-2020-00127-SCR dated 26 February 2020.](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [Appendix 1 of the ESR for FRA-317-5.09, PID 109493.](#)

<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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- USFWS NWI maps: [N/A.](#)
- USGS topographic maps: [Appendix 1 of the ESR for FRA-317-5.09, PID 109493.](#)

**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="#">Other than the USGS map listed above, no other USGS sources were used.</a>
<a href="#">USDA Sources</a>	<a href="#">Other than the Soil Survey listed above, no other USDA sources were used.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">Google Earth: 1994 and 2019 aerial photographs. (1955 aerial photograph provided by requestor and included loaded into Google Earth by the Corps.)</a>

**B. Typical year assessment(s):** [N/A.](#)

**C. Additional comments to support AJD:** [33 CFR 328.3\(b\)\(5\) - The photographs taken by the ODOT from January 2020 demonstrate that the aquatic resource listed in Section II D is a manmade drainage ditch constructed or excavated in upland to convey stormwater runoff from the adjoining industrial lands. Refer to Figure 1 – Aquatic Resource Map in the administrative record. Ditch 1 is not a water identified in paragraph \(a\)\(1\) or \(a\)\(2\) of 33 CFR 328.3, nor are any portions of Ditch 1 constructed in an \(a\)\(4\) water of 33 CFR 328.3. The Corps has determined that the aquatic resource listed in Section II D is a ditch constructed or excavated in upland, exhibits perennial flow, is not a water of the United States per 33 CFR 328.3\(b\)\(5\), and is not subject to regulation under Section 404.](#)