



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): 4/30/2021

ORM Number: LRH-2014-01035-OLR

Associated JDs: Previous PJD and AJD for LRH-2014-1035, dated 8 January 2015

Review Area Location¹:

State/Territory: OH City: Liberty Township County/Parish/Borough: Delaware County

Center Coordinates of Review Area: Latitude 40.213059 Longitude -83.042782

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

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

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Stream 5	352 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 5 is an intermittent, indirect tributary to the Olentangy River, an (a)(1) water, at a location outside of the review area. Stream 5 contributes intermittent surface water flow indirectly to the Olentangy River, an (a)(1) water, in a typical year (reference Section III B of this AJD form).
Stream 9 - INT	167 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 9-INT is an intermittent, indirect tributary to the Olentangy River, an (a)(1) water, at a location outside of the review area. Stream 9-INT contributes intermittent surface water flow indirectly to the Olentangy 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

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 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
N/A	N/A	N/A	N/A

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Stream 10	123 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 10 is an ephemeral stream and meets the definition of "ephemeral" in paragraph (c)(3). Stream 10 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 9 - EPH	84 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 9-EPH is an ephemeral stream and meets the definition of "ephemeral" in paragraph (c)(3). Stream 9-EPH 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.
Swale 2	246 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 2 is an ephemeral feature and meets the definition of "ephemeral" in paragraph (c)(3). Swale 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 G	0.01 acres	(b)(1) Non-adjacent wetland	Wetland G 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: *Title(s) and date(s)*.
Preliminary Jurisdictional Waters Determination Report, Olentangy Falls East, Section 4 & 5 dated 26 March 2021 and completed by Civil and Environmental Consultants, Inc. (JD, Mar 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) Title(s) and/or date(s)*. *Figure 3 – Preliminary Jurisdictional Waters Determination Map and Appendix C – Site Photographs (JD, Mar 2021), Google Earth Aerial Imagery (2019, 2018, 2016, 2015, 2014, 2011, 2010, 2009, 2006, 2005, 2004, 2003, 2002, and 1988), and HistoricAerials.com (1980, 1966, 1954, and 1953)*
Corps Site visit(s) conducted on: *Date(s)*.

Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s)*. *LRH-2014-1035, PJD and AJD dated 8 January 2015*

Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*

USDA NRCS Soil Survey: *Title(s) and/or date(s)*. *Appendix A – NRCS Soils Report (JD, Mar 2021)*

USFWS NWI maps: *Title(s) and/or date(s)*. *Figure 2 – Background Environmental Data Map*

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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(JD, Mar 2021)

X USGS topographic maps: *Title(s) and/or date(s)*. Figure 1 – Site Location Map (JD, Mar 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	Corps Regulatory GIS Viewers.
State/Local/Tribal Sources	N/A.
Other Sources	Appendix D – Wetland Determination Data Forms and Appendix E – ORAM Forms (JD, Mar 2021)

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 specific geographic region where the aquatic resource occurs. One (1) point-in-time data source dated 5 March 2021, 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 5 March 2021, normal conditions with an antecedent condition calculation of 10 were observed during the WebWIMP wet season. The 30-day rolling total for precipitation was within the 30-year normal range. On 5 March 2021, Streams 5 and 9-INT exhibited flow within the stream channel. Field indicators of intermittent flow were also observed in Streams 5 and 9-INT, including a clearly defined bed and bank and coarse bed material. Based on the submitted information, Streams 5 and 9-INT contribute intermittent flow downstream indirectly to the Olentangy River, an (a)(1) water, in a typical year. Therefore, Streams 5 and 9-INT are (a)(2) waters.

Based on the submitted information, Streams 9-EPH and 10 exhibit ephemeral flow. On 5 March 2021, Streams 9-EPH and 10 exhibited standing water within the stream channel. Based on the submitted information, the standing water within the stream channels was attributed to recent snow melt. Streams 9-EPH and 10 do not provide intermittent or perennial flow downstream to an (a)(1) water in a typical year. Swale 2 is an erosional feature in the landscape that exhibits ephemeral flow. Stream 9-EPH, Stream 10, and Swale 2 are not jurisdictional waters of the United States per 33 CFR 328.3(b)(3). Wetland G does not abut a water identified in 33 CFR 328.3(a)(1), (2), or (3), is not inundated by flooding from a water identified in 33 CFR 328.3(a)(1), (2), or (3) in a typical year, is 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 is 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, Wetland G is not a jurisdictional water 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 a flood hazard area.

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.