



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): 1/22/2021

ORM Number: LRH-2020-00906-SCR

Associated JDs: N/A

Review Area Location¹:

State/Territory: OH City: Hilliard County/Parish/Borough: Franklin County

Center Coordinates of Review Area: Latitude 40.018600 Longitude -83.124235

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 2	1,855 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 2 (UNT Scioto River) is a perennial, direct tributary to the Scioto River, an (a)(1) water, at a location outside of the review area. Stream 2 contributes perennial surface water flow directly to the Scioto 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

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland H	0.02 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland H directly abuts Stream 2, an (a)(2) water. Reference Stream 2 above.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

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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Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Blatz Lake	23 acres	(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)	Blatz Lake is an artificial open water feature constructed entirely in uplands. Blatz Lake is not an impoundment of an (a)(1)-(a)(3) water and is not subject to regulation under Section 404.
Stream 1	386 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 3	146 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). Stream 3 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 4	129 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). Stream 4 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 1	319 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 1 is an erosional feature and meets the definition of "ephemeral" in paragraph (c)(3). Swale 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.
Swale 2	1097 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 2 is an erosional 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.
Swale 3	277 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 3 is an erosional feature and meets the definition of "ephemeral" in paragraph (c)(3). Swale 3 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 4	800 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Swale 4 is an erosional feature and meets the definition of "ephemeral" in paragraph (c)(3). Swale 4 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	0.45 acres	(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. Reference Section III B of this AJD form.
Wetland B - PFO	0.37 acres	(b)(1) Non-adjacent wetland	Wetland B - PFO 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. Reference Section III B of this AJD form.
Wetland B - PEM	0.7 acres	(b)(1) Non-adjacent wetland	Wetland B - PEM 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. Reference Section III B of this AJD form.
Wetland C	0.07 acres	(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

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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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			water of the United States per 33 CFR 328.3(b)(1), and is not subject to regulation under Section 404. Reference Section III B of this AJD form.
Wetland D	0.27 acres	(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. Reference Section III B of this AJD form.
Wetland E	0.14 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. Reference Section III B of this AJD form.
Wetland F	0.23 acres	(b)(1) Non-adjacent wetland	Wetland F 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. Reference Section III B of this AJD form.
Wetland G	0.04 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. Reference Section III B of this AJD form.
Wetland I	0.34 acres	(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. Reference Section III B of this AJD form.
Wetland J	1.5 acres	(b)(1) Non-adjacent wetland	Wetland J 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. Reference Section III B of this AJD form.
Wetland K	0.44 acres	(b)(1) Non-adjacent wetland	Wetland K 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. Reference Section III B of this AJD form.
Wetland L	0.17 acres	(b)(1) Non-adjacent wetland	Wetland L 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. Reference Section III B of this AJD form.
Wetland M	0.09 acres	(b)(1) Non-adjacent wetland	Wetland M 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. Reference Section III B of this AJD form.

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.

X Information submitted by, or on behalf of, the applicant/consultant: *Title(s) and date(s).*
Jurisdictional Waters Delineation Report, CMH-072 dated December 2020 and completed by O'Brien & Gere Engineers, Inc., a Ramboll company (JD, Dec 2020)
 This information *is* sufficient for purposes of this AJD.

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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 4 – Jurisdictional Waters Delineation Map and Appendix D – Photograph Log (JD, Dec 2020), Google Earth Aerial Imagery (1994, 2002, 2003, 2005, 2007, 2009, 2011, 2015, 2017, and 2019), and Historic Aerial Imagery (1953, 1957, 1963, 1965, 1971, 1980, and 1981)
- ___ 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: *Title(s) and/or date(s)*. Figure 2 – NRCS Soil Survey Map (JD, Dec 2020)
- USFWS NWI maps: *Title(s) and/or date(s)*. Figure 3 – USFWS National Wetland Inventory Map (JD, Dec 2020)
- USGS topographic maps: *Title(s) and/or date(s)*. Figure 1 – Site Location Map (JD, Dec 2020)

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 A – FEMA Firm Map, Appendix C – Wetland Determination Data Forms, Appendix E – ORAM Forms, and Appendix F – HHEI Forms (JD, Dec 2020)

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 dated 12 October 2020, with a corresponding antecedent precipitation tool (APT) report, is included in the evaluation for the features listed in Section II D, as applicable. According to the APT report for 12 October 2020, drier than normal conditions with an antecedent condition calculation of 8 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 below the 30-year normal range. On 12 October 2020, Stream 2 exhibited flow within the stream channel which corresponds with the APT report conditions. Stream 2 is also depicted as an unnamed tributary to the Scioto River on the USGS topographic map, NWI map, and the National Hydrography Dataset (NHD). Field indicators of perennial flow were also observed in Stream 2, including a clearly defined bed and bank. Based on the submitted information, Stream 2 contributes perennial flow downstream directly to the Scioto River, an (a)(1) water, in a typical year. Therefore, Stream 2 is an (a)(2) water. Wetland H directly abuts Stream 2, an (a)(2) water. Therefore, Wetland H is an (a)(4) water.

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Based on the submitted information, Streams 1, 3, and 4 exhibit ephemeral flow. On 12 October 2020, Streams 1, 3, and 4 did not exhibit flow within the stream channel even though the precipitation data indicates 0.29 inches of rain was observed. Therefore, Streams 1, 3, and 4 do not provide intermittent or perennial flow downstream to an (a)(1) water in a typical year. Streams 1, 3, and 4 are not jurisdictional waters of the United States per 33 CFR 328.3(b)(3). Wetlands A-G and I-M 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-G and I-M are not jurisdictional waters of the United States per 33 CFR 328.3(b)(1).

- C. Additional comments to support AJD:** Based on aerial imagery, Blatz Lake was constructed between 1965-1971 entirely in uplands. Blatz Lake is not an impoundment of an (a)(1)-(a)(3) water and is not a jurisdictional water of the United States per 33 CFR 328.3(b)(8). Based on the submitted information, Swales 1-4 exhibit ephemeral flow. Therefore, Swales 1-4 are not jurisdictional waters of the United States per 33 CFR 328.3(b)(3). According to the National Flood Hazard FEMA map, the northern corner of the site is located within the 100-year floodplain and the area around Stream 2 is located within the 500-year floodplain. The remainder of the site is not located within a flood hazard area.

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