



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): 4/8/2021  
 ORM Number: LRH-2021-00180-SCR  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>:  
 State/Territory: OH City: Canal Winchester County/Parish/Borough: Fairfield County  
 Center Coordinates of Review Area: Latitude 39.852578 Longitude -82.798725

**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 1	2216 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 1 (Tussing Ditch) is a perennial, indirect tributary to the Scioto River, an (a)(1) water, at a location outside of the review area. Stream 1 contributes perennial surface water flow indirectly 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 A	1.351 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland A directly abuts Stream 1, an (a)(2) water. Reference Stream 1 above.

<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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**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
Pond 1	0.609 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)	Pond 1 is an artificial open water feature constructed entirely in uplands. Pond 1 is not an impoundment of an (a)(1)-(a)(3) water and is not subject to regulation under Section 404.
Stream 2	314 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 B	0.289 acres	(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. Reference Section III B of this AJD form.
Wetland C	0.155 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 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	0.147 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	0.233 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.

**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)*. *Water Resources Delineation Report, 111 Acres Bowen Road, Canal Winchester and Violet Township, Fairfield and Franklin Counties, Ohio* dated October 2020 and completed by Davey Resource Group, Inc. (JD, Oct 2020)

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)*. *Appendix A – Water Resources Map, Appendix B – Plant Communities Map, Appendix I – Photographs of Site (JD, Oct 2020), Google Earth aerial imagery (2019, 2018, 2016, 2015, 2014, 2011, 2010, 2009, 2007, 2006, 2005, 2004, 2002, and 1994), and HistoricAerials.com (1983, 1971, 1970, 1965, 1963, 1957, 1954, and 1953)*

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

<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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REGULATORY PROGRAM  
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NAVIGABLE WATERS PROTECTION RULE

- 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)*. [Appendix G – Location of Study Area on Franklin and Fairfield County Soil Survey Map \(JD, Oct 2020\)](#)
- USFWS NWI maps: *Title(s) and/or date(s)*. [Appendix F – Location of Study Area on National Wetlands Inventory Map \(JD, Oct 2020\)](#)
- USGS topographic maps: *Title(s) and/or date(s)*. [Appendix E – Location of Study Area on Canal Winchester Quadrangle \(JD, Oct 2020\)](#)

**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 J – Vegetation, Hydrology and Soils Data Sheets and Appendix K – Water Resource Assessment Forms (JD, Oct 2020)

**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 24 September 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 24 September 2020, normal conditions with an antecedent condition calculation of 14 were observed during the WebWIMP dry season with a Palmer Drought Severity Index Value of incipient wetness. The 30-day rolling total for precipitation was above the 30-year normal range. On 24 September 2020, Stream 1 exhibited flow within the stream channel. Stream 1 is depicted as Tussing Ditch on the USGS topographic map and an unnamed perennial tributary on the NWI map and the National Hydrography Dataset (NHD). Field indicators of perennial flow were also observed in Stream 1, including a clearly defined bed and bank. Based on the submitted information, Stream 1 contributes perennial flow downstream indirectly to the Scioto River, an (a)(1) water, in a typical year. Therefore, Stream 1 is an (a)(2) water. Wetland A directly abuts Stream 1, an (a)(2) water. Therefore, Wetland A is an (a)(4) water.

Based on the submitted information, Stream 2 exhibits ephemeral flow. On 24 September 2020, Stream 2 did not exhibit flow within the stream channel. Therefore, Stream 2 does not provide intermittent or perennial flow downstream to an (a)(1) water in a typical year. Stream 2 is not a jurisdictional water of the United States per 33 CFR 328.3(b)(3). Wetlands B-E 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

<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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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 B-E 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, Pond 1 was constructed between 1983-1994 entirely in uplands. Pond 1 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). According to the National Flood Hazard FEMA map, a portion of site around Stream 1 is located within the 100-year floodplain. The remainder of the site is not located within a flood hazard area.

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<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.