



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): 5/18/2021
 ORM Number: LRH-2021-00302-MUS
 Associated JDs: N/A
 Review Area Location¹:
 State/Territory: OH City: Etna Township County/Parish/Borough: Licking County
 Center Coordinates of Review Area: Latitude 39.958597 Longitude -82.697048

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
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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Stream 2	350 feet	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to	Based on information submitted in the report listed in Section III and historic aerial imagery, Stream 2 was constructed or excavated in uplands between 2004 and

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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		convey, treat, infiltrate, or store stormwater runoff	2005 to convey, treat, infiltrate or store stormwater runoff associated with an adjacent development.
Stream 3	77 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.
Wetland 2	0.46 acres	(b)(1) Non-adjacent wetland	Wetland 2 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 3	0.09 acres	(b)(1) Non-adjacent wetland	Wetland 3 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 5	0.06 acres	(b)(1) Non-adjacent wetland	Wetland 5 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)*.
Jurisdictional Waters Delineation Report National Road SW Property dated 19 March 2021 and completed by Central Ohio Wetland Consulting, 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)*. *Aerial Photographs (1955, 1960, 1964, 1979, 1986, 1989, 1994, 1998, 2005, 2006, 2013, 2016, 2018, and 2020) and Jurisdictional Waters Location Map, Photo Key Map, and site photographs (JD, Mar 2021) and HistoricAerials.com (1994, 2004, 2006, 2009, 2010, 2011, 2013, 2015, and 2017)*

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)*. *USDA Web Soil Survey Map (JD, Mar 2021)*

USFWS NWI maps: *Title(s) and/or date(s)*. *National Wetlands Inventory Map (JD, Mar 2021)*

USGS topographic maps: *Title(s) and/or date(s)*. *USGS Topographic Maps 1958, 1967, 1974, 1985, 1992, and 2019 (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.

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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USACE Sources	Corps Regulatory GIS Viewers.
State/Local/Tribal Sources	N/A.
Other Sources	Wetland Determination Data Forms and ORAM Data 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 3 March 2021, 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 3 March 2021, normal conditions with an antecedent condition calculation of 10 were observed during the WebWIMP wet season with a Palmer Drought Severity Index Value of mild drought. The 30-day rolling total for precipitation was within the 30-year normal range. Wetlands 2, 3, and 5 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 2, 3, and 5 are not jurisdictional waters of the United States per 33 CFR 328.3(b)(1).

Based on the submitted information, Stream 3 exhibits ephemeral flow. On 3 March 2021, Stream 3 did exhibit flow within the stream channel. Based on precipitation information, the review area received approximately 0.62 inches of precipitation on 1 March 2021 which corresponds with ephemeral flow conditions observed in Stream 3 on 3 March 2021. Therefore, Stream 3 does not provide intermittent or perennial flow downstream to an (a)(1) water in a typical year. Stream 3 is not a jurisdictional water of the United States per 33 CFR 328.3(b)(3).

C. Additional comments to support AJD: Based on information submitted in the report listed in Section III and historic aerial imagery, Stream 2 was constructed or excavated in uplands between 2004 and 2005 to convey, treat, infiltrate or store stormwater runoff associated with an adjacent commercial development. Therefore, Stream 2 is not a jurisdictional water of the United States per 33 CFR 328.3(b)(10). 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.