



**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): [5/20/2021](#)
 ORM Number: [LRH-2021-00385-HOC-UNT to Little Factory Creek](#)
 Associated JDs: [N/A](#)
 Review Area Location¹: State/Territory: [Ohio](#) City: [Athens](#) County/Parish/Borough: [Athens](#)
 Center Coordinates of Review Area: Latitude [39.333655](#) Longitude [-82.132588](#)

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.	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.	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.	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.	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.	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 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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland A	0.17	acre(s)	(b)(1) Non-adjacent wetland.	It has been determined that 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.
Pond 1	0.62	acre(s)	(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).	It has been determined that Pond 1 has been constructed or excavated in upland or in non-jurisdictional waters, is not considered a water of the United States per 33 CFR 328.3(b)(8), and is not subject to regulation under Section 404.
Stream 1	40.3	linear 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), is not considered a water of the United States per 33 CFR 323.8(b)(3), and is not subject to regulation under Section 404.
Stream 2	117	linear 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), is not considered a water of the United States per 33 CFR 323.8(b)(3), 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: [Jurisdictional Waters Delineation Report, Proposed Culvert Extension for Kershaw Greene Property, Athens, Athens County, Ohio dated 5 May 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\(s\).](#)

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

- Photographs: [Aerial and Other: Aerial Photographs \(Kershaw Greene Property, May 2021\), HistoricalAerials.com \(2017, 2015, 2013, 2011, 2010, 2009, 2007, 2004, 1996, 1983, 1960\).](#)
- Corps site visit(s) conducted on: [N/A](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [USDA Web Soil Survey Map \(NRCS Soil Survey Map\) \(Kershaw Greene Property, May 2021\)](#)
- USFWS NWI maps: [National Wetlands Inventory \(NWI\) Map \(Kershaw Greene Property, May 2021\)](#)
- USGS topographic maps: [2019 USGS Topographic Map \(Kershaw Greene Property, May 2021\)](#)

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	N/A
State/Local/Tribal Sources	N/A
Other Sources	Appendix D-Data Forms (USACE Wetland Determination Data Forms and ORAM Forms) in referenced report.

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, 20 April 2021 (Wet Season), with a corresponding antecedent precipitation tool (APT) report, were included in the evaluation for the features on-site, as applicable. The APT was utilized to determine typical year for point-in-time data sources. Based on the APT, 20 April 2021 is included during the WebWIMP wet season and has a Palmer Drought Severity Index of -1.26 (mild drought). The 30-day rolling total for precipitation is within the 30-year normal range. Therefore, site conditions were normal. Even at normal conditions, Wetland A had no hydrological connection to an (a)(1)-(a)(3) water and is not expected to be inundated by flooding in a typical year. Wetland A 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, and 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. Therefore, 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. Additionally, Stream 1 and Stream 2 exhibited ephemeral flow at normal conditions. Therefore, the two (2) streams meet the definition of “ephemeral” in paragraph (c)(3), are not considered waters of the United States per 33 CFR 323.8(b)(3), and are not subject to regulation under Section 404. Based on aerial imagery, Pond 1 was constructed or excavated in upland or in non-jurisdictional waters and does not have an hydrological connection to a (a)(1)-(a)(3) water.

C. Additional comments to support AJD: According to the National Flood Hazard FEMA map, majority of the project area is not located within the 100-year floodplain. Stream 2 is located within the 100-year floodplain.