



**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): 2/17/2021

ORM Number: LRH-2020-00723-SCR

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Ohio City: Columbus County/Parish/Borough: Franklin

Center Coordinates of Review Area: Latitude 39.852977 Longitude -82.996154

**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
- 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
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.

<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 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	10.8	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).	Pond 1 does not flow to an (a)(1) water, is an artificial (manmade) feature constructed entirely in uplands, and is not an impoundment of a (a)(1)-(a)(3) water. Pond 1 is not subject to regulation under Section 404. Refer to Section III C. for an assessment of the (b)(8) exclusion.
Wetland A	4.2	acre(s)	(b)(1) Non-adjacent wetland.	The subject wetland, Wetland A, has been determined to not be “adjacent” to a paragraph (a)(1), (2), or (3) water (33 CFR 328.3(c)(1)(i)-(iv)). Refer to Section 111 C. for an assessment of each adjacency criteria.
Wetland B	0.34	acre(s)	(b)(1) Non-adjacent wetland	The subject wetland, Wetland B, has been determined to not be “adjacent” to a paragraph (a)(1), (2), or (3) water (33 CFR 328.3(c)(1)(i)-(iv)). Refer to Section 111 C. for an assessment of each adjacency criteria.
Wetland C	0.14	acre(s)	(b)(1) Non-adjacent wetland	The subject wetland, Wetland C, has been determined to not be “adjacent” to a paragraph (a)(1), (2), or (3) water (33 CFR 328.3(c)(1)(i)-(iv)). Refer to Section 111 C. for an assessment of each adjacency criteria.

**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: [Project Cyprus, Investigation of Waters of the United States, Jacobs Engineering Group, Inc., \(2020 Delineation Report\) prepared by EMH&T on 19 March 2020, revised on 11 September 2020, and received on 18 September 2020. Information outlined in the Corps’ email correspondence sent to EMH&T dated 3 November 2020, 12 November 2020, and 20 November 2020 with EMH&T responses provided on 5 November 2020, 16](#)

<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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November 2020, and 24 November 2020, respectively. The Corps “Jurisdictional Determination Field Visit” Letter dated 22 January 2021 and the Corps’ email correspondence dated 26 January 2021. The “Addendum to Project Cyprus Investigation of Waters of the U.S. (LRH-2020-00723)” Report dated and received on 29 January 2021.

This information is sufficient for purposes of this AJD.

Rationale: The information provided, as outlined in Section III.A, accurately reflects the district’s conclusion on the aquatic resources within the geographic boundary of the AJD Review Area.

- Data sheets prepared by the Corps: N/A
- Photographs: Aerial and Other: Exhibit 7 – “Project Cyprus 1955 Historical Aerial;” Site Photographs 1-9 provided in the 2020 Delineation Report.
- 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: Exhibit 3A – “Project Cypress Web Soil Survey of Franklin County” and Exhibit 3B – “Project Cyprus Historical Soil Survey of Franklin County” provided in the 2020 Delineation Report.
- USFWS NWI maps: Exhibit 5 – “Project Cyprus National Wetland Inventory Map” provided in the 2020 Delineation Report.
- USGS topographic maps: Exhibit 2 – “Project Cyprus USGS Topographic Map” provided in the 2020 Delineation Report; 1940, 1943, 1951, 1956, 1957, 1966, 1975, 1985, 1995, 2013, and 2016 USGS topographic maps accessed from Historic Aerials

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrography Dataset (NHD) accessed November 2020 and January 2021; Huntington District Regulatory Viewer.
USDA Sources	Other than the Web Soil Survey Report listed above, no other USDA sources were used.
NOAA Sources	N/A.
USACE Sources	Huntington District Regulatory Viewer – Lidar Aerial Imagery (3DEP Elevation Hillshade, National Agricultural Imagery Program (NAIP) Imagery, and NAIP Imagery – Colored Infrared) – accessed November 2020 and January 2021.
State/Local/Tribal Sources	N/A.
Other Sources	Historic Aerial Imagery (1953, 1954, 1957, 1963, 1965, 1971, 1983, 1994) accessed November 2020 and “Recent” Aerial Imagery (July 2019, Sept 2019, Apr 2020, June 2020, and Oct 2020) – accessed November 2020 and January 2021.
Other Sources	Exhibit 4 – “Project Cyprus Flood Insurance Rate Map” provided in the 2020 Delineation Report 2020.
Other Sources	N/A.

**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. Two (2) point-in-time data sources dated 5 March 2020 and 25 April 2020, with a corresponding antecedent precipitation tool (APT) report, are included in the evaluation for the excluded features listed in Section II D. According to the



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APT report for 5 March 2020, wetter than normal conditions were observed during the WebWIMP wet season with a Palmer Drought Severity Index (PDSI) Value of moderate wetness. According to the APT report for 25 April 2020, normal conditions were observed during the WebWIMP wet season with a PDSI Value of moderate wetness. The 30-day rolling total for precipitation was within the 30-year wet range for the 5 March 2020 APT data point and the 25 April 2020 data point was in the 30-year normal range. Under normal conditions, the wetlands did not meet the definition of an adjacent wetland.

Wetlands A, B and C 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.

Pond 1 and Wetland A, B and C do not meet the definition of waters of the United States as identified in 33 CFR 328.3(a)(1) or (2). Refer also to Section III C. for details.

**C. Additional comments to support AJD:**

The subject pond, Pond 1, has been determined to be an artificial pond that was constructed or excavated in uplands and is not an impoundment of a jurisdictional water that meets paragraph (c)(6). Based on a review of remote sensing resources (historical aerial imagery and historical USGS topographic maps) and the delineation report, there is no evidence the subject pond contributes surface water flow to a water identified in paragraph (a)(1) in a typical year either directly or indirectly through one or more waters identified in paragraphs (a)(2)-(4). There is no evidence of a potential (a)(1)-(3) water observed within the vicinity of the subject pond. The subject pond persists in a depression on the landscape and is entirely surrounded by uplands on all sides. The delineation report indicates the subject pond is an excavated feature documented in NWI mapping as a PUBGx. No evidence of an impoundment of a jurisdictional water meeting the conditions of paragraph (c)(6) was documented in the delineation report or observed in remote sensing resources.

The subject wetlands, Wetlands A, B, and C, have been determined to not be “adjacent” to a paragraph (a)(1), (2), or (3) water (33 CFR 328.3(c)(1)(i)-(iv)). Each adjacency criteria is assessed below:

- (i) The subject wetlands do not abut a paragraph (a)(1), (2), or (3) water as evidenced by the submitted wetland delineation report and a review of remote sensing resources. The subject wetlands persist in a depression on the landscape and are entirely surrounded by uplands on all sides. No (a)(1)-(3) waters were observed within the immediate vicinity of the perimeter of the subject wetlands or the AJD boundary, therefore, the subject wetlands are not abutting a paragraph (a)(1)-(3) water.
  
- (ii) No evidence of inundation by flooding from a paragraph (a)(1), (2), or (3) water was documented in the delineation report. Based on remote sensing, no potential (a)(1)-(3) waters were observed within the immediate vicinity of the subject wetlands. Based on a review of mapping resources and aerial photographs, the nearest potential mapped (a)(1)-(3) water is a tributary approximately 3,000+ feet north of the subject parcel. Additionally, the subject parcel is located outside of the Federal Emergency Management Agency 500-year floodplain. The Delineation Report and remote sensing resources do not indicate the subject wetlands are prone to being inundated by flooding from a paragraph (a)(1)-(3) water, the subject wetlands have been determined to not meet adjacency criteria (ii).



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- (iii) The subject wetlands persist in depressions on the landscape and are entirely surrounded by uplands on all sides. The subject wetlands are not separated from a paragraph (a)(1)-(3) water only by a natural berm, bank, dune, or similar natural feature and therefore, do not meet adjacency criteria (iii).
  
- (iv) The subject wetlands persist in depressions on the landscape and are entirely surrounded by uplands on all sides. Based on remote sensing resources and the Delineation Report, there were no artificial dikes, barriers, or similar artificial structures documented around the perimeter of the subject wetlands nor were there any artificial features (e.g., culverts) documented within or stemming from the subject wetlands. The subject wetlands are not separated from a paragraph (a)(1)-(3) water by an artificial dike, barrier, or similar artificial structure and therefore, do not meet adjacency criteria (iv).