



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): 12/21/2020

ORM Number: LRH-2020-00837-SCR

Associated JDs: N/A

Review Area Location¹: State/Territory: OH City: Pickerington County/Parish/Borough: Fairfield County

Center Coordinates of Review Area: Latitude 39.900928 Longitude -82.789581

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 1	947 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 1 (George Creek) 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).
Stream 2	2,165 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 2 (Unnamed Tributary to George Creek) is a perennial, indirect tributary to the Scioto River, an (a)(1) water, at a location outside of the review area. Stream 2 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

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

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland C	0.05 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland C directly abuts Stream 2, an Unnamed Tributary to George Creek, an (a)(2) water. Reference Stream 2 above.
Wetland D	0.03 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland D directly abuts Stream 2, an Unnamed Tributary to George Creek, an (a)(2) water. Reference Stream 2 above.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Stream 3	321 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 A	1.3 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	0.08 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 E	0.21 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.

X Information submitted by, or on behalf of, the applicant/consultant: [Longview Highlands North Located North of Long Road, West of Diley Road, and East of Gender Road, City of Pickerington, Fairfield County, Ohio dated 13 October 2020 \(JD, Oct 2020\) and additional information received on 18 December 2020 \(JD, Dec 2020\)](#)

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)*.

X Photographs: [aerial and other, Exhibit 6 – Delineation Map and Photographs \(JD, Oct 2020\), Updated Exhibit 6 and Uplands Photographs \(JD, Dec 2020\), Google Earth Aerial Imagery \(2020, 2018, 2016, 2014, 2011, 2009, 2007, 2005, 2002, and 1994\), and Historic Aerial Images \(1983, 1971, 1965, and 1971\)](#)

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

Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s)*.

X Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*

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

- USDA NRCS Soil Survey: [Exhibit 3 – Soil Survey \(JD, Oct 2020\)](#)
- USFWS NWI maps: [Exhibit 5 – National Wetland Inventory Map \(JD, Oct 2020\)](#)
- USGS topographic maps: [Exhibit 1 – Location Map and Exhibit 2 – USGS Topographic Map \(JD, Oct 2020\)](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	3DEP Elevation Hillshade via Corps Regulatory GIS Viewers
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	Corps Regulatory GIS Viewers
State/Local/Tribal Sources	N/A.
Other Sources	Exhibit 4 – Flood Insurance Rate Map (JD, Oct 2020)
Other Sources	Appendix B – Wetland Dataforms (JD, Oct 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. Two (2) point-in-time data sources dated 24 June 2020 and 7 October 2020, each with a corresponding antecedent precipitation tool (APT) report, are included in the evaluation for the features listed in Section II D, as applicable. According to the APT report for 24 June 2020, normal conditions with an antecedent condition calculation of 11 were observed during the WebWIMP dry season with a Palmer Drought Severity Index Value of moderate wetness. The 30-day rolling total for precipitation was below the 30-year normal range. According to the APT report for 7 October 2020, normal conditions with an antecedent condition calculation of 14 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 within the 30-year normal range. On 24 June 2020, Streams 1 and 2 exhibited flow within the stream channel which corresponds with the APT report conditions. Stream 1 is depicted as George Creek on the USGS topographic map, NWI map, and the National Hydrography Dataset (NHD). Stream 2 is depicted as an unnamed tributary on the NHD. Field indicators of perennial flow were also observed in Streams 1 and 2, including a clearly defined bed and bank. Based on the submitted information, Streams 1 and 2 contribute perennial flow downstream indirectly to the Scioto River, an (a)(1) water, in a typical year. Therefore, Streams 1 and 2 are (a)(2) waters. Wetlands C and D directly abut Stream 2. Therefore, Wetlands C and D are (a)(4) waters.

Based on the submitted information, Stream 3 exhibits ephemeral flow. On 24 June 2020, Stream 3 did not exhibit flow within the stream channel which correspond with the APT report conditions for an ephemeral feature. Therefore, Stream 3 does not provide intermittent or perennial flow downstream to an (a)(1) water in a typical year. Wetlands A, B, and 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 CFR 328.3(a)(1), (2),

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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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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, B, and E are not jurisdictional waters of the United States per 33 CFR 328.3(b)(1).

- C. Additional comments to support AJD:** According to the National Flood Hazard FEMA map, the northwestern portion of the site around Stream 1 is located within the 100-year floodplain. The remainder of the site is not located within the 100-year floodplain.

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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.