



**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): 6/23/2021
 ORM Number: LRH-2020-60-OHR-UT Mill Creek
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Ohio City: Evendale County/Parish/Borough: Hamilton
 Center Coordinates of Review Area: Latitude 39.25921 Longitude -84.44917

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)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 (INT)	910	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.

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.



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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
Pond	1.4	acre(s)	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Pond appears to be created by impounding the headwaters of Stream 1, an (a)(2) tributary, and contributes surface water flow to a water identified in paragraph (a)(1) of this section in a typical year either directly or through Stream 1, an (a)(2) water.

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.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Drainage 1 (Stream 2)	175	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Drainage 1 is an ephemeral feature 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
Drainage 2 (Stream 3)	332	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Drainage 2 is an ephemeral feature 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.
Drainage 3	70	Linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Drainage 3 is an ephemeral feature 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 and Stream 3 were the names of these features in the PJD issued on 19 February 2020 and the NWP 39 issued on 18 May 2020.

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: [The agent, Geotechnology, Inc.](#) requested an approved jurisdictional determination, dated 4 February 2021 on behalf of [The Village of](#)

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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Evendale. Supplemental information including an updated property features map, photos, HHEI forms, historical aerials, and a summary table was provided 29 March 2021.

This information is sufficient for purposes of this AJD.

Rationale: N/A

- Data sheets prepared by the Corps: Title(s) and/or date(s).
- Photographs: Aerial and Other: provided 29 March 2021
- Corps site visit(s) conducted on: Date(s).
- Previous Jurisdictional Determinations (AJDs or PJDs): PJD for LRH-2020-60-OHR issued on 19 February 2020 and the NWP 39 for LRH-2020-60-OHR issued on 18 May 2020.
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Web Soil Survey for Hamilton County, Ohio
- USFWS NWI maps: Title(s) and/or date(s).
- USGS topographic maps: Glendale and Cincinnati East, Ohio

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.
CorpsMap ORM Map Layers	N/A
State/Local/Tribal Sources	N/A.
Other Sources	HHEI forms

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. One (1) point-in-time data source dated 19 March 2021, 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 APT report for 19 March 2021, wetter than normal conditions with an antecedent precipitation condition score of -17 was observed during the WebWIMP wet season with a Palmer Drought Severity Index Value of -0.41 normal. The 30-day rolling total for precipitation was within the normal rolling thirty year period.

C. Additional comments to support AJD: