



**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): 10/22/2020

ORM Number: LRH-2020-769-LMR

Associated JDs: N/A

Review Area Location¹: State/Territory: Ohio City: Sugarcreek Twp. County/Parish/Borough: Greene

Center Coordinates of Review Area: Latitude 39.6486 Longitude -84.1027

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
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.

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Stormwater Management Ditch	476	linear feet	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Stormwater Management Ditch was constructed in uplands or in non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff. Therefore, the Stormwater Management Feature is not a jurisdictional water of the United States per 33 CFR 328.3(b)(10).
Ditch 1	315	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Ditch 1 is a ditch with ephemeral flow that was constructed in uplands, is not a water of the United States per 33 CFR 328.3(a)(1) or (2), and was not constructed in an adjacent wetland per 33 CFR 328.2 (a)(4). Therefore, Ditch 1 is not a jurisdictional water of the United States per 33 CFR 328.3(b)(5).

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, O'Brien & Gere/Ramboll, prepared the report titled Jurisdictional Waters Delineation for the Spears Property, dated 2 October 2020 on behalf of Grand Communities, LLC \(JD Report, October 2020\)](#)

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: Aerial Photographs, Site Photographs, and Site Features Map \(JD Report, October 2020\)](#)

Corps site visit(s) conducted on: [Date\(s\)](#).

Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [Web Soil Survey for Greene County, Ohio \(JD Report, October 2020\)](#)

USFWS NWI maps: [USFWS NWI \(USFWS 2016\) \(JD Report, October 2020\)](#)

USGS topographic maps: [Sugar Creek, Ohio \(JD Report, October 2020\)](#)

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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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	Stream Forms (Appendix F) of the report

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 15 September 2020, with a corresponding antecedent precipitation tool (APT) report, is included in the evaluation for the excluded features listed in Section II D. According to the APT report for 15 September 2020, wetter than normal conditions with an antecedent precipitation condition score of 10 was observed during the WebWIMP dry season with a Palmer Drought Severity Index Value of Incipient wetness. The 30-day rolling total for precipitation was within the normal rolling thirty year period. The JD review area is located within the 100-year floodplain. It has been determined that Ditch 1 is not a water of the United States per 33 CFR 328.3(a)(1) or (2), was not constructed in an adjacent wetland per 33 CFR 328.2 (a)(4), is not considered a water of the United States per 33 CFR 328.3(b)(5), is are not subject to regulation under Section 404. Furthermore, Stormwater Management Ditch was constructed in uplands or in non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff. Therefore, the Stormwater Management Feature is not a jurisdictional water of the United States per 33 CFR 328.3(b)(10).

C. Additional comments to support AJD: