



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): 12/01/2020
 ORM Number: LRH-2020-783-OHR-East Fork Mill Creek
 Associated JDs: N/A
 Review Area Location¹:
 State/Territory: OH City: West Chester County/Parish/Borough: Butler County
 Center Coordinates of Review Area: Latitude 39.34390 Longitude -84.47172

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
East Fork Mill Creek	2,331 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	East Fork Mill Creek is a perennial tributary to the Mill Creek, an (a)(1) water at a location outside of the AOI in a typical year (reference Section III B of this AJD form).
Stream 1 UT East Fork Mill Creek	1,417 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 2 is an intermittent tributary to the East Fork Mill Creek, an (a)(2) water, an indirect tributary to the Mill Creek, an (a)(1) water at a location outside of the AOI 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

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 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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland A	0.81 acre	(b)(1) Non-adjacent wetland.	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, 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, and is 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, Wetland A is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1).

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: [Terracon Consultants, on behalf of the applicant, NorthPoint Development, submitted the Wetland Delineation Report NorthPoint West Chester Site Union Centre Boulevard West Chester, Butler County, Ohio dated 9 September 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)*.

Photographs: [APPENDIX B – GROUND PHOTOGRAPHS](#)

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

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

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

USDA NRCS Soil Survey: [APPENDIX A – EXHIBITS](#)

USFWS NWI maps: [APPENDIX A – EXHIBITS](#)

USGS topographic maps: [APPENDIX A – EXHIBITS](#)

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	Corps Regulatory GIS Viewers
State/Local/Tribal Sources	N/A.
Other Sources	Wetland Data Forms

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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- 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 point-in-time data source, 17 August 2020 (Dry Season), with a corresponding APT report, were included in the evaluation for the excluded features onsite. The antecedent precipitation tool was utilized to determine typical year for point-in-time data sources. Based on the antecedent precipitation tool, 17 August 2020 is included during the WebWIMP dry season and has a Palmer Drought Severity Index of 1.5 mild wetness. The 30-day rolling total for precipitation was within the 30-year normal range. Therefore, site conditions are within range of a typical year on the study site. The excluded wetland had no connection in a typical year situation under normal circumstances.
- C. Additional comments to support AJD:** The property is located within the FEMA 100 year floodplain.

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