



**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): 2/10/2021  
 ORM Number: LRH-2020-838-GMR  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: Ohio City: Dixon and Israel Township  
 County/Parish/Borough: Preble  
 Center Coordinates of Review Area: Latitude 39.643811 Longitude -84.803696

**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)<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
Stream WB-001	2,063 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	WB-001 (2,063 linear feet) is a perennial stream referred to as Fleisch Run. Stream WB-003 contribute perennial flow to a downstream (a)(1) water in a typical year and is a water of the United States per 33 CFR 328.3(a)(2).
Stream WB-002	1,654 linear feet	(a)(2) Perennial tributary	Stream WB-002 (1,654 linear feet) is a perennial unnamed tributary to East Fork Four Mile Creek.

<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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Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
		contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream WB-003 contribute perennial flow to a downstream (a)(1) water in a typical year and is a water of the United States per 33 CFR 328.3(a)(2).
Stream WB-003	558	linear feet (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream WB-003 (558 linear feet) is an intermittent unnamed tributary to East Fork Four Mile Creek. Stream WB-003 contribute intermittent flow to a downstream (a)(1) water in a typical year and is a water of the United States per 33 CFR 328.3(a)(2).
Stream WB-004	4,073	linear feet (a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream WB-004 (4,073 linear feet) is a perennial unnamed tributary to East Fork Four Mile Creek. Stream WB-004 contribute perennial flow to a downstream (a)(1) water in a typical year and is a water of the United States per 33 CFR 328.3(a)(2).
Stream WB-006	271	linear feet (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream WB-006 (271 linear feet) is an intermittent unnamed tributary to East Fork Four Mile Creek. Stream WB-006 contribute intermittent flow to a downstream (a)(1) water in a typical year and is a water of the United States per 33 CFR 328.3(a)(2).

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
Wetland WL-004	0.05 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland WL-004 (0.05 acre) directly abuts Stream WB-002, an (a)(2) tributary. Therefore, Wetland WL-004 is a water of the United States per 33 CFR 328.3(a)(4).
Wetland WL-006	0.41 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland WL-006 (0.41 acre) directly abuts Stream WB-004, an (a)(2) tributary. Therefore, Wetland WL-006 is a water of the United States per 33 CFR 328.3(a)(4).



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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland WL-007	0.09	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland WL-007 (0.09 acre) directly abuts Stream WB-004, an (a)(2) tributary. Therefore, Wetland WL-007 is a water of the United States per 33 CFR 328.3(a)(4).

**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
Stream WB-005	259	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream WB-005 (259 linear feet) exhibits ephemeral flow, and is not a water of the United States per 33 CFR 328.3(b)(3).

Wetland WL-003	0.09	acre(s)	(b)(1) Non-adjacent wetland.	Wetland WL-003 (0.09 acre) 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).
Wetland WL-005	0.35	acre(s)	(b)(1) Non-adjacent wetland.	Wetland WL-005 (0.35 acre) 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).

**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: [Wetland Delineation Report, Jurisdictional Determination for Waterbodies and Wetlands associated with the Angelina Solar Project dated June 30, 2020.](#)

This information **Select.** 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: Within referenced JD report.](#)
- 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.*

<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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- USDA NRCS Soil Survey: [Preble County, Ohio](#)
- USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).
- USGS topographic maps: [1:24K Fairhaven, OH Quad](#).

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

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">N/A.</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">Stream Assessment Forms (Attachment E of JD Report), Wetland Delineation and Assessment Forms (Attachment F of JD Report)</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. One point-in-time data source, 02 November 2017 , 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. Wetland adjacency was assessed on 02 November 2017. Based on the antecedent precipitation tool, 02 November 2017 is included during the WebWIMP wet season and has a Palmer Drought Severity Index of moderate wetness. The 30-day rolling total for precipitation was wetter than normal compared to the 30-year average. Therefore, site conditions were within a wetter range of typical year conditions.

**C. Additional comments to support AJD:** The property is located outside of the FEMA 100 year floodplain.