



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): 11/13/20

ORM Number: LRH-2020-843-LMR

Associated JDs: N/A

Review Area Location¹:

State/Territory: OH City: Beavercreek Township County/Parish/Borough: Greene County

Center Coordinates of Review Area: Latitude 39.714389 Longitude -83.990016

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
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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland F	0.28 acre	(b)(1) Non-adjacent wetland.	Wetland F 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

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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			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 F is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1).
Wetland G	0.01 acre	(b)(1) Non-adjacent wetland	Wetland G 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 G is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1).
Wetland H	0.004 acre	(b)(1) Non-adjacent wetland.	Wetland H 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 H is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1).
Wetland I	0.83 acre	(b)(1) Non-adjacent wetland.	Wetland I 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 I is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1).
Wetland J	0.11 acre	(b)(1) Non-adjacent wetland.	Wetland J 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 J is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1).
Wetland K	0.42 acre	(b)(1) Non-adjacent wetland.	Wetland K 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 K is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1).

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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			States per 33 CFR 328.3(b)(1).
Wetland L	0.43 acre	(b)(1) Non-adjacent wetland.	Wetland L 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 L is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1).
Erosional Feature B	198 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Erosional Feature B does not meet the definitions of waters of the United States per 33 CFR 328.3(a)(1) or (2). Additionally, this feature exhibits ephemeral flow and is not a waters of the United States per 33 CFR 328.3 (b)(3).
Erosional Feature C	212 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Erosional Feature B does not meet the definitions of waters of the United States per 33 CFR 328.3(a)(1) or (2). Additionally, this feature exhibits ephemeral flow and is not a waters of the United States per 33 CFR 328.3 (b)(3).
Erosional Feature D	227 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Erosional Feature B does not meet the definitions of waters of the United States per 33 CFR 328.3(a)(1) or (2). Additionally, this feature exhibits ephemeral flow and is not a waters of the United States per 33 CFR 328.3 (b)(3).
Erosional Feature E	348 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Erosional Feature B does not meet the definitions of waters of the United States per 33 CFR 328.3(a)(1) or (2). Additionally, this feature exhibits ephemeral flow and is not a waters of the United States per 33 CFR 328.3 (b)(3).

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: [Report titled *KERWN Pink, LLC. Site Located Along Trebein Road in Beavercreek, Ohio* dated October 2020 completed by CBC Engineers & Associates, Ltd \(JD, October 2020\).](#)

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: [Delineation Map, aerial photographs \(JD, Feb 2020\)](#)

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: [USDA Web Soil Survey \(JD, October 2020\).](#)

USFWS NWI maps: [NWI Map \(JD, October 2020\).](#)

USGS topographic maps: [General Property Location Map, Property Location Map,](#)

Other data sources used to aid in this determination:

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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	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Wetland Determination Data Form, and ORAM Form (JD, October 2020).
Other Sources	FEMA National Flood Hazard Layer, Huntington District Regulatory Viewers

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, 31 August 2020, 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, 31 August 2020 is included during the WebWIMP dry season and has a Palmer Drought Severity Index of mild wetness. The 30-day rolling total for precipitation was within dryer than normal when compared to the 30-year average. Therefore, site conditions were within below range of typical year conditions.

C. Additional comments to support AJD: N/A.

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