



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): 23 March 2021

ORM Number: LRH-2021-190-SCR

Associated JDs: N/A

Review Area Location<sup>1</sup>:

State/Territory: OH City: Marysville County/Parish/Borough: Union County

Center Coordinates of Review Area: Latitude 40.200574 Longitude -83.322746

**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

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

**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
Pond 1	0.04 Acre	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long	Pond 1 is an artificial lake and/or pond that was constructed in uplands and is not an impoundment of jurisdictional waters that meet the conditions of 33 CFR

<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 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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		as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	328.3(c)(6). Therefore, Pond 1 is not considered a jurisdictional water of the United States per 33 CFR 328.3(b)(8).
Pond 2	0.09 Acre	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Pond 2 is an artificial lake and/or pond that was constructed in uplands and is not an impoundment of jurisdictional waters that meet the conditions of 33 CFR 328.3(c)(6). Therefore, Pond 2 is not considered a jurisdictional water of the United States per 33 CFR 328.3(b)(8).
Agricultural Ditch	1421 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)	Agricultural Ditch is a ditch with ephemeral flow that was excavated in uplands. Ditch 1 does not relocate a tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland.
Wetland A	4.16 Acre	(b)(1) Non-adjacent wetland	Wetland A does not meet the definition of an adjacent wetland (33 CFR 328.3(c)(1)(i)-(iv)).
Wetland B	0.24 Acre	(b)(1) Non-adjacent wetland	Wetland B does not meet the definition of an adjacent wetland (33 CFR 328.3(c)(1)(i)-(iv)).
Wetland C	0.44 Acre	(b)(1) Non-adjacent wetland	Wetland C does not meet the definition of an adjacent wetland (33 CFR 328.3(c)(1)(i)-(iv)).
Wetland D	0.03 Acre	(b)(1) Non-adjacent wetland	Wetland D does not meet the definition of an adjacent wetland (33 CFR 328.3(c)(1)(i)-(iv)).
Wetland E	0.03 Acre	(b)(1) Non-adjacent wetland	Wetland E does not meet the definition of an adjacent wetland (33 CFR 328.3(c)(1)(i)-(iv)).
Stormwater Pond	1.33 Acres	(b)(10) Stormwater Control Feature	Stormwater Pond is a stormwater control feature constructed or excavated in uplands to convey, treat, infiltrate, or store stormwater run-off

**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: **EMH&T prepared the report titled SCOTTS LAWN EZ SEED 2.0 PRODUCTION FACILITY LOCATED AT 14680 SCOTTS LAWN ROAD MARYSVILLE, OH, 43040, Delineation of Waters of the United States Scotts Lawn EZ Seed** and dated 23 February 2021. The report was prepared on behalf of the applicant, Scotts Lawn EZ Seed for the 51-acre property located at 14680 Scottslawn Road, west of Industrial Parkway, north of Scottslawn Road, and east of Weaver Road, in the City of Marysville, Paris Township, Union County, Ohio.

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: *(NA, aerial, other, aerial and other)* Photographs in above referenced report

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

Previous Jurisdictional Determinations (AJDs or PJDs):

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

USDA NRCS Soil Survey: **Exhibit 3 in above referenced report**

USFWS NWI maps: **Exhibit 4 in above referenced report**

USGS topographic maps: **Exhibit 2 in above referenced report**

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

Data Source (select)	Name and/or date and other relevant information
USGS Sources	NHD, Huntington District Regulatory Viewers
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Appendix A, B, C – Methodology, Wetland Determination Data Forms and ORAM Forms
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 (1) point-in-time data source dated 14 January 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 14 January 2021, drier than normal conditions with an antecedent precipitation condition score of was observed during the WebWIMP wet season with a Palmer Drought Severity Index Value of -0.8 incipient drought. The 30-day rolling total for precipitation was within the normal rolling thirty year period. According to the APT report for 14 January 2021, normal conditions with an antecedent precipitation condition score of 10 was observed during the WebWIMP wet season with a Palmer Drought Severity Index Value of incipient drought. The 30-day rolling total for precipitation was within the normal rolling thirty year period.

Agricultural Ditch is a ditch that was constructed in uplands. It has been determined that Agricultural Ditch 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), and is not considered a water of the United States per 33 CFR 328.3(b)(5). Wetlands A-E do not abut a water identified in 33 CFR 328.3(a)(1), (2), or (3), are not inundated by flooding from a water identified in 33 CFR 328.3(a)(1), (2), or (3) in a typical year, are 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 are 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, Wetlands A-E are is not jurisdictional waters of the United States per 33 CFR 328.3(b)(1). Ponds 1 and 2 are constructed in uplands and are not an impoundment of jurisdictional waters that meet the conditions of 33 CFR 328.3(c)(6) and are not considered waters of the United States per 33 CFR 328.3(b)(8). The Stormwater Pond is a stormwater control features constructed or excavated in upland or in non-jurisdictional waters to convey, treat, infiltrate, or store stormwater run-off and is not a jurisdictional water of the United States per 33 CFR 328.3(b)(10).

**C. Additional comments to support AJD:** N/A or provide additional discussion as appropriate.

<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.