



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): 7 May 2021

ORM Number: LRH-2021-309-GMR-Gander Run

Associated JDs: N/A

Review Area Location¹:

State/Territory: OH City: Clearcreek Township County/Parish/Borough: Warren County

Center Coordinates of Review Area: Latitude 39.5 Longitude -84.239694

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
Stream 1	325 feet	(a)(2) perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 1 is a perennial tributary to the Great Miami River, an (a)(1) water, at a location outside of the review area. Stream 1 contributes perennial surface water flow indirectly to the Great Miami River in a typical year (reference Section III B of this AJD form).
Stream 2A	440 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 2A is an intermittent tributary to the Great Miami River, an (a)(1) water, at a location outside of the review area. Stream 2A contributes intermittent surface water flow indirectly to the Great Miami River 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
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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
Stream 2B	940 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 2B is an ephemeral stream and meets the definition of "ephemeral" in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments
Stream 3	206 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 3 is an ephemeral stream and meets the definition of "ephemeral" in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments
Pond	0.05 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 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, this pond is not considered a jurisdictional water of the United States per 33 CFR 328.3(b)(8).

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/STREAM RECONNAISSANCE, Legacy Landing Clearcreek Township, Warren County, Ohio \(Report dated 2 April 2021 and prepared by Kilbane Environmental for the Legacy Landing LLC.](#)
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)* [provided in the 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: [Figure in report](#)

USFWS NWI maps: [Figure in report](#)

USGS topographic maps: [Figure in report](#)

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.

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 Sources	Appendix –Data Forms
Other Sources	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. According to the APT report for 10 March 2021, drier than normal conditions with an antecedent precipitation condition score of -9 was observed during the WebWIMP wet season with a Palmer Drought Severity Index Value of 0.89 = incipient wetness. The 30-day rolling total for precipitation was drier than the normal rolling thirty-year period. On the 10 March 2021, Stream 1 exhibited perennial flow and Stream 2A exhibited intermittent flow. Streams 2B and 3 exhibited no flow.
- C. Additional comments to support AJD:** N/A or provide additional discussion as appropriate.

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