



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 February 2021
 ORM Number: LRH-2021-61-LMR
 Associated JDs: N/A
 Review Area Location¹:
 State/Territory: OH City: Hamilton Township County/Parish/Borough: Warren County
 Center Coordinates of Review Area: Latitude 39.356975 Longitude -84.197119

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 1B | 232 feet | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | Stream 1B is an intermittent tributary to the Little Miami River, an (a)(1) water, at a location outside of the review area. Stream 1B contributes intermittent surface water flow directly to the Little Miami River in a typical year (reference Section III B of this AJD form). |
| Stream 2 | 75 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 Little Miami River, an (a)(1) water, at a location outside of the review area. Stream 2 contributes intermittent surface water flow directly to the Little Miami River in a typical year (reference Section III B of this AJD form). |
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| | | | |

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 |
|-------------|-------------|-----------------|------------------------------------|
|-------------|-------------|-----------------|------------------------------------|

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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| | | | |
|-----------|------------|---|---|
| Wetland 1 | 0.092 acre | (a)(4) Wetland abuts an (a)(1)-(a)(3) water | Wetland 1 directly abuts Stream 1B, an (a)(2) water. Reference Stream 1B above. |
| Wetland 2 | 0.099 acre | (a)(4) Wetland abuts an (a)(1)-(a)(3) water | Wetland 2 directly abuts Stream 1B, an (a)(2) water. Reference Stream 1B above. |

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

| Exclusion Name | Exclusion Size | Exclusion ⁵ | Rationale for Exclusion Determination |
|----------------|----------------|--|--|
| Stream 1A | 320 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | Stream 1A 12 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 | 216 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | Stream 3 12 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 4 | 68 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | Stream 4 12 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 5 | 179 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | Stream 5 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. |
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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 - Zoar Road Report \(Report\) dated 21 December 2020 and prepared by Kilbane Environmental for the Drees Company](#)

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)* [Appendix A of 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 4 in report](#)

USFWS NWI maps: [Figure 5 in report](#)

USGS topographic maps: [Figure 1 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. |

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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| | |
|----------------------------|---|
| NOAA Sources | N/A. |
| USACE Sources | N/A. |
| State/Local/Tribal Sources | N/A. |
| Other Sources | Appendix B – Wetland Determination Data Forms and Appendix C – ORAM or HHEI Forms in report |
| 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 4 September 2020, drier than normal conditions with an antecedent precipitation condition score of 11 was observed during the WebWIMP dry season with a Palmer Drought Severity Index Value of 1.09 = moderate wetness. The 30-day rolling total for precipitation was within the normal rolling thirty-year period. On the 4 September 2020, Stream 1B and Stream 2 exhibited intermittent flow. Streams 1B and 2 contribute intermittent flow downstream and offsite to the Little Miami River, an (a)(1) water. Therefore, Streams 1B and 2 are (a)(2) waters. Wetland 1 and Wetland 2 abut Stream 1B an (a)(2) water. Therefore, Wetland 1 and Wetland 2 are (a)(4) waters. Streams 1A and 3-5 meets the definition of “ephemeral” in paragraph (c)(3). Therefore, Streams 1A and 3-5 are not considered waters of the United States per 33 CFR 328.3(b)(3).

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

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.