



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): 25-MAR-2021

ORM Number: LRH-2021-00149

Associated JDs: N/A

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

State/Territory: OH Township: Jefferson/Plain County/Parish/Borough: Franklin County

Center Coordinates of Review Area: Latitude 40.0515 Longitude -82.7772

**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
Swisher Ditch	500 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Swisher Ditch (500 linear feet within the area of interest) indirectly contributes surface water flow to an (a)(1) water in a typical year, exhibits intermittent flow, 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
N/A	N/A	N/A	N/A

<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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**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
N/A	N/A	N/A	N/A

**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: *Request for Jurisdictional Determination for the FRA-CR17-11.80 (PID 109494) Project located at the intersection of Morse Road and Babbitt Road, Franklin County, Ohio* dated 16 February 2021 (JD, 16 February 2021)  
This information *is* sufficient for purposes of this AJD.  
Rationale: *NA*.
- Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- Photographs: *Attachment C* JD, 16 February 2021, Google Earth aerial imagery (2019, 2016, 2015, 2014, 2011, 2010, 2009, 2007, 2006, 2005, 2004, 2003, 2002, and 1995), and HistoricAerials.com (1981, 1980, 1971, 1965, 1963, 1959, 1957, and 1953)
- Corps Site visit(s) conducted on: *23 March 2021 (Virtual Review)*
- 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: *Title(s) and/or date(s)*.
- USFWS NWI maps: *Title(s) and/or date(s)*.
- USGS topographic maps: *Attachment B* JD, 16 February 2021 and HistoricAerials.com (2016, 2013, 1983, 1974, 1968, 1958, 1956, 1950, and 1941)

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

Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrography Dataset (NHD) dated 23 March 2021, Huntington District Regulatory Viewer USGS National Map 1:24K New Albany Quad dated 23 March 2021, Huntington District Regulatory Viewer
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/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 (1) point-in-time data source dated 13 March 2019, with a corresponding antecedent precipitation tool (APT) report, is

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a request or 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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included in the evaluation for the jurisdictional feature listed in Section II D. According to the APT report for 13 March 2019, wetter than normal conditions were observed during the WebWIMP wet season with a Palmer Drought Severity Index Value of 5.61 extreme wetness. The 30-day rolling total for precipitation was above the 30-year normal range. During the evaluation of flow regime conducted on 13 March 2019, the stream listed above exhibited flow within the stream channel. Based on a review of the submitted information, the stream listed above exhibits intermittent flow downstream to an (a)(1) water in a typical year and meets the definition of waters of the United States as identified in 33 CFR 328.3(a)(2). Based on a review of the information submitted, historic aerials, and historic topographic maps, the portion of Swisher Ditch south of Morse Road in the review area is located within a ditch that was constructed in a tributary and the portion of Swisher Ditch north of Morse Road in the review area is located within a ditch that relocated the original tributary. The alteration of a tributary does not modify its jurisdictional status as a tributary as long as it continues to meet the flow conditions of the definition. Accordingly, a ditch that relocates a tributary or is constructed in a tributary would be jurisdictional as a tributary as long as it meets the flow conditions of the definition.

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

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<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.