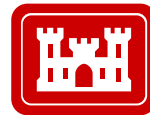




®

Regulatory Program



®

INTERIM APPROVED JURISDICTIONAL DETERMINATION FORM

U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in the Interim Approved Jurisdictional Determination Form User Manual.

SECTION I: BACKGROUND INFORMATION

A. COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (AJD): 26 October 2018

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): LRH-2018-467-HOC-Unnamed Tributary to the Hocking River

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Ohio County/parish/borough: Fairfield County City: Lancaster

Center coordinates of site (lat/long in degree decimal format): Lat. 39.723652, Long. -82.670785.

Map(s)/diagram(s) of review area (including map identifying single point of entry (SPOE) watershed and/or potential jurisdictional areas where applicable) is/are: attached in report/map titled Jurisdictional Determination Report dated 11 October 2018 and supplemental information received on 22 October 2018 and 26 October 2018.

Other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different jurisdictional determination (JD) form. List JD form ID numbers (e.g., HQ-2015-00001-SMJ-1): .

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office (Desk) Determination Only. Date: 2 January 2019.

Office (Desk) and Field Determination. Office/Desk Dates: Field Date(s): .

SECTION II: DATA SOURCES

Check all that were used to aid in the determination and attach data/maps to this AJD form and/or references/citations in the administrative record, as appropriate.

Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant. Title/Date: Jurisdictional Determination Report dated 11 October 2018 and supplemental information received on 22 October 2018 and 26 October 2018.

Data sheets prepared/submitted by or on behalf of the applicant/consultant.

Data sheets/delineation report are sufficient for purposes of AJD form. Title/Date: .

Data sheets/delineation report are not sufficient for purposes of AJD form. Summarize rationale and include information on revised data sheets/delineation report that this AJD form has relied upon: Additional Information received via email from the Mine Services Company. Revised Title/Date: 22 October 2018.

Data sheets prepared by the Corps. Title/Date: .

Corps navigable waters study. Title/Date: .

CorpsMap ORM map layers. Title/Date: USGS NHD, USFWS NWI, and FEMA Flood Hazard Zones.

USGS Hydrologic Atlas. Title/Date: .

USGS, NHD, or WBD data/maps. Title/Date: .

USGS 8, 10 and/or 12 digit HUC maps. HUC number: 050302040401 .

USGS maps. Scale & quad name and date: .

USDA NRCS Soil Survey. Citation: Custom Soil Report for Fairfield County, 2 May 2018.

USFWS National Wetlands Inventory maps. Citation: .

State/Local wetland inventory maps. Citation: .

FEMA/FIRM maps. Citation: .

Photographs: Aerial. Citation: Resource Location Map. or Other. Citation: Site Photographs (1-46).

LiDAR data/maps. Citation: .

Previous JDs. File no. and date of JD letter: LRH-2018-467-HOC (10 July 2018) .

- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

SECTION III: SUMMARY OF FINDINGS

Complete ORM "Aquatic Resource Upload Sheet" or Export and Print the Aquatic Resource Water Droplet Screen from ORM for All Waters and Features, Regardless of Jurisdictional Status – Required

A. RIVERS AND HARBORS ACT (RHA) SECTION 10 DETERMINATION OF JURISDICTION:

"navigable waters of the U.S." within RHA jurisdiction (as defined by 33 CFR part 329) in the review area.

- **Complete Table 1 - Required**

NOTE: If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Section 10 navigable waters list, DO NOT USE THIS FORM TO MAKE THE DETERMINATION. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Section 10 RHA navigability determination.

B. CLEAN WATER ACT (CWA) SECTION 404 DETERMINATION OF JURISDICTION: "waters of the U.S." within CWA jurisdiction (as defined by 33 CFR part 328.3) in the review area. **Check all that apply.**

(a)(1): All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (Traditional Navigable Waters (TNWs))

- **Complete Table 1 - Required**

This AJD includes a case-specific (a)(1) TNW (Section 404 navigable-in-fact) determination on a water that has not previously been designated as such. Documentation required for this case-specific (a)(1) TNW determination is attached.

(a)(2): All interstate waters, including interstate wetlands.

- **Complete Table 2 - Required**

(a)(3): The territorial seas.

- **Complete Table 3 - Required**

(a)(4): All impoundments of waters otherwise identified as waters of the U.S. under 33 CFR part 328.3.

- **Complete Table 4 - Required**

(a)(5): All tributaries, as defined in 33 CFR part 328.3, of waters identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 5 - Required**

(a)(6): All waters adjacent to a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters.

- **Complete Table 6 - Required**

Bordering/Contiguous.

Neighboring:

(c)(2)(i): All waters located within 100 feet of the ordinary high water mark (OHWM) of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3.

(c)(2)(ii): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 and not more than 1,500 feet of the OHWM of such water.

(c)(2)(iii): All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (a)(1) or (a)(3) of 33 CFR part 328.3, and all waters within 1,500 feet of the OHWM of the Great Lakes.

(a)(7): All waters identified in 33 CFR 328.3(a)(7)(i)-(v) where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 7 for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(7) waters identified in the similarly situated analysis. - Required**

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

(a)(8): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3 not covered by (c)(2)(ii) above and all waters located within 4,000 feet of the high tide line or OHWM of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 8 for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(8) waters identified in the similarly situated analysis. - Required**

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

C. NON-WATERS OF THE U.S. FINDINGS:

Check all that apply.

- The review area is comprised entirely of dry land.
- Potential-(a)(7) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
- **Complete Table 9 and attach a map delineating the SPOE watershed boundary with potential (a)(7) waters identified in the similarly situated analysis. - Required**
- Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.
- Potential-(a)(8) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
- **Complete Table 9 and attach a map delineating the SPOE watershed boundary with potential (a)(8) waters identified in the similarly situated analysis. - Required**
- Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.
- Excluded Waters (Non-Waters of U.S.), even where they otherwise meet the terms of paragraphs (a)(4)-(a)(8):
- **Complete Table 10 - Required**
- (b)(1): Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA.
- (b)(2): Prior converted cropland.
- (b)(3)(i): Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.
- (b)(3)(ii): Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.
- (b)(3)(iii): Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1)-(a)(3).
- (b)(4)(i): Artificially irrigated areas that would revert to dry land should application of water to that area cease.
- (b)(4)(ii): Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds.
- (b)(4)(iii): Artificial reflecting pools or swimming pools created in dry land.¹
- (b)(4)(iv): Small ornamental waters created in dry land.¹
- (b)(4)(v): Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water.
- (b)(4)(vi): Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways.¹
- (b)(4)(vii): Puddles.¹
- (b)(5): Groundwater, including groundwater drained through subsurface drainage systems.¹
- (b)(6): Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.¹
- (b)(7): Wastewater recycling structures created in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.
- Other non-jurisdictional waters/features within review area that do not meet the definitions in 33 CFR 328.3 of (a)(1)-(a)(8) waters and are not excluded waters identified in (b)(1)-(b)(7).
- **Complete Table 11 - Required.**

D. ADDITIONAL COMMENTS TO SUPPORT AJD:

¹ In many cases these excluded features will not be specifically identified on the AJD form, unless specifically requested. Corps Districts may, in case-by-case instances, choose to identify some or all of these features within the review area.

Jurisdictional Waters of the U.S.

Table 1. (a)(1) Traditional Navigable Waters

(a)(1) Waters Name	(a)(1) Criteria	Rationale to Support (a)(1) Designation Include High Tide Line or Ordinary High Water Mark indicators, when applicable.
N/A	Choose an item.	N/A

Table 2. (a)(2) Interstate Waters

(a)(2) Waters Name	Rationale to Support (a)(2) Designation
N/A	N/A

Table 3. (a)(3) Territorial Seas

(a)(3) Waters Name	Rationale to Support (a)(3) Designation
N/A	N/A

Table 4. (a)(4) Impoundments

(a)(4) Waters Name	Rationale to Support (a)(4) Designation
N/A	N/A

Table 5. (a)(5) Tributaries

(a)(5) Waters Name	Flow Regime	(a)(1)-(a)(3) Water Name to which this (a)(5) Tributary Flows	Tributary Breaks	Rationale for (a)(5) Designation and Additional Discussion. Identify flowpath to (a)(1)-(a)(3) water or attach map identifying the flowpath; explain any breaks or flow through excluded/non-jurisdictional features, etc.
Stream 1	Perennial	Hocking River	No	Stream 1 is an unnamed tributary to the Hocking River with a perennial flow regime. Stream 1 originates just south of the property and conveys flow north for approximately 3,224 linear feet before leaving the approved JD review area. Stream 1 conveys flow directly to the Hocking River located to the east of the approved JD review area. Stream 1 exhibits a defined bed and bank, an ordinary high water mark, and contributes flow to a downstream (a)(1) water, the Hocking River. Therefore, Stream 1 is an (a)(5) jurisdictional water of the United States.

Stream 2	Perennial	Hocking River	No	Stream 2 is an unnamed tributary to the Hocking River with a perennial flow regime. Stream 2 flows for 847 linear feet through the southwest property line of the approved JD review area before conveying flow into Stream 1. Stream 2 conveys flow to the tributary system (Stream 2 > Stream 1 > Hocking River). Stream 2 exhibits a defined bed and bank, an ordinary high water mark and contributes flow to a downstream (a)(1) water, the Hocking River. Therefore, Stream 2 is an (a)(5) jurisdictional water of the United States.
----------	-----------	---------------	----	---

Table 6. (a)(6) Adjacent Waters

(a)(6) Waters Name	(a)(1)-(a)(5) Water Name to which this Water is Adjacent	Rationale for (a)(6) Designation and Additional Discussion. Identify the type of water and how the limits of jurisdiction were established (e.g., wetland, 87 Manual/Regional Supplement); explain how the 100-year floodplain and/or the distance threshold was determined; whether this water extends beyond a threshold; explain if the water is part of a mosaic, etc.
N/A	N/A	N/A

Table 7. (a)(7) Waters

SPOE Name	(a)(7) Waters Name	(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus	Significant Nexus Determination Identify SPOE watershed; discuss whether any similarly situated waters were present and aggregated for SND; discuss data, provide analysis, and summarize how the waters have more than speculative or insubstantial effect on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water, etc.
N/A	N/A	N/A	N/A

Table 8. (a)(8) Waters

SPOE Name	(a)(8) Waters Name	(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus	Significant Nexus Determination Identify SPOE watershed; explain how 100-yr floodplain and/or the distance threshold was determined; discuss whether waters were determined to be similarly situated to subject water and aggregated for SND; discuss data, provide analysis, and then summarize how the waters have more than speculative or insubstantial effect the on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water, etc.
1	Wetland 1	Hocking River (a)(1)	The SPOE 1 watershed lateral limits were delineated using the ORM JD Viewer SPOE tool. The SPOE watershed is depicted on the attached map labeled SPOE 1-LRH-2018-467-HOC. The 100-year floodplain was determined via the CorpsMap ORM layer FEMA Flood Hazards, but Wetland 1 is not located within the floodplain of an (a)(1)-(a)(3) water. The distance to an (a)(5) water was measured via the

			<p>CorpsMap ORM distance tool. Wetland 1 is located approximately 2,600 linear feet from an unnamed tributary to the Hocking River and connects via agricultural drain tiles. This unnamed tributary to the Hocking River is located outside of the approved JD review area; however, this tributary exhibits a defined bed and bank, an ordinary high water mark, and contributes flow to a downstream (a)(1) water, the Hocking River. Therefore, the unnamed tributary to the Hocking River is an (a)(5) water.</p> <p>Similarly situated waters were determined using the ORM JD Viewer SPOE tool SVL (Soil, Vegetation, and Landrom) layers which include: (S) soil drainage class (SSURGO), (V) gap land cover-vegetation class, and (L) landforms (USGS HUC 10). The approved JD site is comprised by differing SVL layers which limits the presence of similarly situated waters. No other waters within the SPOE watershed were determined to be similarly situated to Wetland 1 (SVL 1).</p> <p>Climatological information and hydrologic information were considered in the analysis of the physical characteristics of Wetland 1. The area surrounding the subject site receives an average annual precipitation of 36.54-inches per year (including snowfall). Wetland 1 has the ability to offer lifecycle support functions for aquatic species present in the (a)(1) water by exporting organic matter, contributing to flow, trapping sediment, recycling nutrients, and storing runoff. Therefore, Wetland 1 does have more than a speculative effect on the physical, chemical, or biological integrity of the downstream (a)(1) water, the Hocking River. Wetland 1 has been determined to be an (a)(8) water and is considered a jurisdictional water of the United States.</p>
1	Wetland 2	Hocking River (a)(1)	<p>The SPOE 1 watershed lateral limits were delineated using the ORM JD Viewer SPOE tool. The SPOE watershed is depicted on the attached map labeled SPOE 1-LRH-2018-467-HOC. The 100-year floodplain was determined via the CorpsMap ORM layer FEMA Flood Hazards, but Wetland 2 is not located within the floodplain of an (a)(1)-(a)(3) water. The distance to an (a)(5) water was measured via the CorpsMap ORM distance tool. Wetland 2 is located approximately 2,100 linear feet from an unnamed tributary to the Hocking River and connects via agricultural drain tiles. The unnamed tributary to the Hocking River is located outside of the approved JD review area; however, this tributary exhibits a defined bed and bank, an ordinary high water mark, and contributes flow to a downstream (a)(1) water, the Hocking River. Therefore, the unname tributary to the Hocking River is an (a)(5) water.</p> <p>Similarly situated waters were determined using the ORM JD Viewer SPOE tool SVL (Soil, Vegetation, and Landrom) layers which include: (S) soil drainage class (SSURGO), (V) gap land cover-vegetation class, and (L) landforms (USGS HUC 10). The approved JD site is comprised by differing SVL layers which limits the presence of similarly situated waters. Wetlands 2 and 3 are located within (1) area of land with homogenous soils, vegetation, and landform (SVL 2). Therefore, Wetlands 2 and 3 are considered similarly situated to each other under the first subset of similarly situated waters.</p>

			<p>Climatological information and hydrologic information were considered in the analysis of the physical characteristics of Wetland 2. The area surrounding the subject site receives an average annual precipitation of 36.54-inches per year (including snowfall). Wetland 2 has the ability to offer lifecycle support functions for aquatic species present in the (a)(1) water by exporting organic matter, contributing to flow, trapping sediment, recycling nutrients, storing runoff. Wetland 2 does not appear to be regularly mowed or altered and therefore maintains a high ability to recycle nutrients to the (a)(1) water. Wetland 2 does have more than a speculative effect on the physical, chemical, or biological integrity of the downstream (a)(1) water, the Hocking River. Wetland 2 has been determined to be an (a)(8) water and is considered a jurisdictional water of the United States.</p>
1	Wetland 3	Hocking River (a)(1)	<p>The SPOE 1 watershed lateral limits were delineated using the ORM JD Viewer SPOE tool. The SPOE watershed is depicted on the attached map labeled SPOE 1-LRH-2018-467-HOC. The 100-year floodplain was determined via the CorpsMap ORM layer FEMA Flood Hazards but Wetland 3 is not located within the floodplain of an (a)(1)-(a)(3) water. The distance to an (a)(5) water was measured via the CorpsMap ORM distance tool. Wetland 3 is located approximately 1,400 linear feet from Stream 1 and connects via agricultural drain tiles. Stream 1 is located outside of the approved JD review area; however, this tributary exhibits a defined bed and bank, an ordinary high water mark, and contributes flow to a downstream (a)(1) water, the Hocking River. Therefore, Stream 1 is an (a)(5) water.</p> <p>Similarly situated waters were determined using the ORM JD Viewer SPOE tool SVL (Soil, Vegetation, and Landform) layers which include: (S) soil drainage class (SSURGO), (V) gap land cover-vegetation class, and (L) landforms (USGS HUC 10). The approved JD site is comprised by differing SVL layers which limits the presence of similarly situated waters. Wetlands 2 and 3 are located within (1) area of land with homogenous soils, vegetation, and landform (SVL 2). Therefore, Wetlands 2 and 3 are considered similarly situated to each other under the first subset of similarly situated waters.</p> <p>Climatological information and hydrologic information were considered in the analysis of the physical characteristics of Wetland 3. The area surrounding the subject site receives an average annual precipitation of 36.54-inches per year (including snowfall). Wetland 3 has the ability to offer lifecycle support functions for aquatic species present in the (a)(1) water by exporting organic matter, contributing to flow, trapping sediment, recycling nutrients, storing runoff. Wetland 3 does have more than a speculative effect on the physical, chemical, or biological integrity of the downstream (a)(1) water, the Hocking River. Wetland 3 has been determined to be an (a)(8) water and is considered a jurisdictional water of the United States.</p>

Non-Jurisdictional Waters

Table 9. Non-Waters/No Significant Nexus

SPOE Name	Non-(a)(7)/(a)(8) Waters Name	(a)(1)-(a)(3) Water Name to which this Water DOES NOT have a Significant Nexus	Basis for Determination that the Functions DO NOT Contribute Significantly to the Chemical, Physical, or Biological Integrity of the (a)(1)-(a)(3) Water. Identify SPOE watershed; explain how 100-yr floodplain and/or the distance threshold was determined; discuss whether waters were determined to be similarly situated to the subject water; discuss data, provide analysis, and summarize how the waters did not have more than a speculative or insubstantial effect on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water.
N/A	N/A	N/A	N/A

Table 10. Non-Waters/Excluded Waters and Features

Paragraph (b) Excluded Feature/Water Name	Rationale for Paragraph (b) Excluded Feature/Water and Additional Discussion.
Pond 1	Pond 1 (1.56 acres) is a man-made feature that has been constructed as part of an active wastewater treatment system for the existing and future development. Pond 1 is non-jurisdictional and is not subject to Section 404 of the Clean Water Act.

Table 11. Non-Waters/Other

Other Non-Waters of U.S. Feature/Water Name	Rationale for Non-Waters of U.S. Feature/Water and Additional Discussion.
N/A	N/A

Figure 1. SPOE 1, as defined by the ORM JD Viewer SPOE tool associated with the significant nexus evaluation of Wetlands 1-3, Rock Mill Industrial Park JD, LRH-2018-467-HOC.

