APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): LAP 5/3/12

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Huntington District, Ronald L. Kuis and Associates, LRH-2011-94-SCR-RR1-Intermittent Stream 1, Adjacent Wetland A and Abutting Wetlands E and F

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Ohio County/parish/borough: Delaware City:
Center coordinates of site (lat/long in degree decimal format): Lat. 40.1406° N, Long. -82.8991° W.
Universal Transverse Mercator:
Name of nearest waterbody: Spring Run
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Alum Creek
Name of watershed or Hydrologic Unit Code (HUC): 05060001
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☒ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: 9 March 2012
☒ Field Determination. Date(s): 8 December 2011

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There Are no "*navigable waters of the U.S.*" within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There Are "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☒ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☒ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      ☒ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      ☐ Impoundments of jurisdictional waters
      ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
      Non-wetland waters: 257 linear feet: 7 width (ft) and/or 0.04 acres.
      Wetlands: 8.454 acres.

   c. **Limits (boundaries) of jurisdiction** based on: Established by OHWM.
      Elevation of established OHWM (if known): .

2. **Non-regulated waters/wetlands (check if applicable):**[3]
   ☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain: .

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. **TNW**
   Identify TNW: .

   Summarize rationale supporting determination: .

2. **Wetland adjacent to TNW**
   Summarize rationale supporting conclusion that wetland is "adjacent": .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. **Characteristics of non-TNWs that flow directly or indirectly into TNW**

   (i) General Area Conditions:
   Watershed size: 199 **square miles**
   Drainage area: 0.23 **square miles**
   Average annual rainfall: 37.69 inches
   Average annual snowfall: 21.1 inches

   (ii) Physical Characteristics:
   (a) Relationship with TNW:
   ☐ Tributary flows directly into TNW.
   ☒ Tributary flows through **3** tributaries before entering TNW.

   Project waters are **5-10** river miles from TNW.
   Project waters are **1 (or less)** river miles from RPW.
   Project waters are **2-5** aerial (straight) miles from TNW.
   Project waters are **1 (or less)** aerial (straight) miles from RPW.
   Project waters cross or serve as state boundaries. Explain: .

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Identify flow route to TNW[5]: Stream 1 flows into a drain tile that flows beneath Wetland A which flows off-site to the east into various graded manholes and catch basins before flowing into an unnamed tributary of Spring Run. Spring Run (perennial RPW) flows into Alum Creek, a TNW.
Tributary stream order, if known: 1st .

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☐ Natural
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: Channelized; subverted through drain tile .

Tributary properties with respect to top of bank (estimate):
Average width: 7 feet
Average depth: 1.2 feet
Average side slopes: **Vertical (1:1 or less).**

Primary tributary substrate composition (check all that apply):

☒ Silts	☒ Sands	☐ Concrete
☐ Cobbles	☒ Gravel	☐ Muck
☐ Bedrock	☒ Vegetation. Type/% cover:	
☒ Other. Explain: 90% silt and hardpan and 10% gravel and sand .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: moderately stability; some erosion.
Presence of run/riffle/pool complexes. Explain: Not present; typical flows are slow and shallow; riffle and pool complexes have not formed .
Tributary geometry: **Meandering**
Tributary gradient (approximate average slope): 1 %

(c) Flow:
Tributary provides for: **Seasonal flow**
Estimate average number of flow events in review area/year: **20 (or greater)**
Describe flow regime: Stream is influenced by groundwater, but does not flow during drier periods; the flow in the stream is from the northwest to the southeast; a previously determined ephemeral stream and an upland drainage ditch, previously determined to be non-jurisdictional in January 2007, flow into the stream outside of the study area; Flows from Stream 1 are subverted into a drain tile that appears to flow beneath adjacent Wetland A; there is an approximately 174 linear foot distance between Stream 1 and Swale 1 of Wetland A; during precipiation events, the stream overwhelms the field tile and becomes overland flow and causes flooding of the adjacent residential properties; the consultant stated the stream flows seasonally; a previous JD approved in April 2008 found the stream to be an intermittent seasonally flowing RPW.
Other information on duration and volume: The average annual flow for Stream 1 is 0.22 cubic feet per second. Flow was observed in: July and September 2007 for another delineation associated with an approved JD in April 2008; October 2010 delineation; and during the USACE's site visit on December 8, 2011.

Surface flow is: **Discrete**. Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☒ Bed and banks
☒ OHWM[6] (check all indicators that apply):

☒ clear, natural line impressed on the bank	☐ the presence of litter and debris
☐ changes in the character of soil	☐ destruction of terrestrial vegetation
☐ shelving	☐ the presence of wrack line
☒ vegetation matted down, bent, or absent	☒ sediment sorting
☐ leaf litter disturbed or washed away	☐ scour
☐ sediment deposition	☐ multiple observed or predicted flow events
☐ water staining	☒ abrupt change in plant community
☐ other (list):	

☐ Discontinuous OHWM.[7] Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):
☐ High Tide Line indicated by: ☐ Mean High Water Mark indicated by:

[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
[6] A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
[7] Ibid.

- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other (list):
- ☐ survey to available datum;
- ☐ physical markings;
- ☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: water color is clear .

Identify specific pollutants, if known: .

(iv) Biological Characteristics. Channel supports (check all that apply):

☒ Riparian corridor. Characteristics (type, average width): vegetation is primarily early successional second growth forest; canopy cover of the stream is aprpoximately 60%; Dominant species consists of green ash, honey locust, multirose and honeysuckle.

☒ Wetland fringe. Characteristics: Wetlands E and F abut Stream 1.

☐ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☐ Aquatic/wildlife diversity. Explain findings: .

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: 8.454 acres

Wetland type. Explain: Wetlands E and F are emergent and Wetland A is forested .

Wetland quality. Explain: Wetland A is categorized as a Category 2 wetland using the Ohio Rapid Assessment Method version 5.0 (Mack, 2001). Category 2 wetlands "...support moderate wildlife habitat, or hydrological or recreational functions," and are wetlands which are "dominated by native species but generally without the presence of, or habitat for, rare, threatened or endangered species, and wetland which are degraded but have a reasonable potential for reestablishing lost wetland functions." Wetlands E and F are categorized as Category 1 wetlands. Category 1 "...support minimal wildlife habitat, and minimal hydrological and recreational functions," and as wetlands which "...do not provide critical habitat for threatened or endangered species or contain rare, threatened or endangered species." .

Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: Wetlands E and F abut Stream 1. Wetland hydrology indicators for Wetlands E and F include surface water, saturation and high water table. The water table within Wetland F is approximately 10 inches. The water table within Wetland A is approximately 8 inches and saturation is present at the surface. Oxidized root channels were observed throughout Wetland A and indicate that soil saturation for a sufficient period of time during the growing season to produce anerobic conditions.

Surface flow is: **Overland sheetflow**

Characteristics: There are two drainage features located within Wetland A and they are noted as Swales 1 and 2 in the delineation report. Based upon NRCS tile mapping, drainage tiles, including the one subverting the flows of Stream 1, lie beneath Wetland A. Wetland A is regularly inundated and saturated. Water depths within Wetland A are appoximately 4 inches.

Subsurface flow: **Pick List**. Explain findings: .

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

☒ Directly abutting

☒ Not directly abutting

☒ Discrete wetland hydrologic connection. Explain: Wetland A is located downstream and adjacent to Stream 1. A tile system appears to flow underneath Wetland A based on NRCS mapping.

☐ Ecological connection. Explain: .

☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **2-5** river miles from TNW.

Project waters are **1 (or less)** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters.**

Estimate approximate location of wetland as within the **100 - 500-year** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Water color is clear .

Identify specific pollutants, if known: .

(iii) Biological Characteristics. Wetland supports (check all that apply):

☐ Riparian buffer. Characteristics (type, average width): .

☒ Vegetation type/percent cover. Explain: emergent, scrub-shrub and forested vegetation with aproximately 100% coverage .

☒ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .
☐ Other environmentally-sensitive species. Explain findings: .
☒ Aquatic/wildlife diversity. Explain findings: The microtopography of this wetland is comprised of moderate amounts of vegetated hummocks/tussocks, coarse woody debris, standing deed > 25 cm and amphibian breeding pools .

3. **Characteristics of all wetlands adjacent to the tributary (if any)**
All wetland(s) being considered in the cumulative analysis: 3
Approximately (8.454) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
Wetland A (N)	8.414 acres	Wetland E (Y)	0.022 acre
Wetland F (Y)	0.018 acre		

Summarize overall biological, chemical and physical functions being performed: The funtional services provided by Stream 1 and its adjacent and abutting wetlands are important in maintaining the water quality in the watershed of Spring Run and ultimately Alum Creek, a TNW. Stream 1 (1st order, intermittent) and its adjacent Wetland A provide more than a speculative or insubstantial effect on the chemical, physical, and biological integrity of the receiving TNW, Alum Creek. Therefore, Stream 1 and its adjacent Wetland A are determined to have a significant nexus on the TNW .

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: Stream 1 (1st order, intermittent-seasonal RPW) filters pollutants from surrounding commercial and residential lands. Due to the hydrologic connectivity to downstream perennial RPW (Spring Run) and TNW (Alum Creek), this reach may provide contributing nutrients or organic carbon, directly or indirectly, to the downstream TNW or the species inhabiting it. It has a contributing drainage area of minimal size (23 square miles) compared to that of the corresponding TNW (199 square miles) and has natural surface hydrologic connectivity to a RPW (Spring Run) that flows directly into a TNW (Alum Creek). It has the capability to carry pollutants, organic material, or nutrients to downstream food webs, at least during and following precipitation events, and a relationship to the physical, chemical or biological integrity of the downstream TNW. Stream 1 has more than a speculative or insubstantial effect upon a TNW. Significant nexus standard has been met. Wetland E and F abut Stream 1 and Wetland A is located adjacent to Stream 1. Wetland A extends off-site through a wooded area near a subdivision. Wetlands E and F have buffers averaging 82 to greater than 164 feet. The intensity of the surrounding land use is moderately high to high. Hydrology for these two wetlands comes from precipitation and seasonal and intermittent surface waters. They are also located within the 100 year floodplain area and are part of Stream 1's riparian corridors. Wetlands E and F received an Ohio Rapid Assessment Method (ORAM) scores of 29.5 and 27.5 are categorized as Category 1 wetlands. Wetland A has buffers averaging 82

to greater than 164 feet. The intensity of the surrounding land use is moderately high to high. Hydrology for this wetland comes from precipitation and seasonal and intermittent surface waters. It is located within the 100 year floodplain area. Habitat development within this wetland is very good. Wetland A received an Ohio Rapid Assessment Method (ORAM) scores of 40.5 and is categorized as a Category 2 wetland. In view of the above, the funtional services provided by Stream 1 and its abutting and adjacent wetlands are important in maintaining the water quality in the watershed. Stream 1 (1st order, intermittent) and its adjacent Wetlands E and F provide more than a speculative or insubstantial effect on the chemical, physical, and biological integrity of the receiving TNW, Alum Creek. Therefore, Stream 1 and its adjacent Wetlands E and F have been determined to have a significant nexus on the TNW..

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
   - ☒ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: July and September 2007 for another delineation associated with an approved JD in April 2008; October 2010 delineation; and during the USACE's site visit on December 8, 2011. According to the USGS Streamstats, the average annual flow for Stream 1 is 0.22 cubic feet per second and has a drainge area of 0.23 square mile. .

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☒ Tributary waters: **257** linear feet **2** width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters: .

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
   - ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   - ☐ Tributary waters: linear feet width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters: .

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☒ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
   - ☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .
   - ☒ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: Wetlands E and F lie within the riparian zone along the riparian areas of Stream 1. .

   Provide acreage estimates for jurisdictional wetlands in the review area: **0.04** acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☒ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area: **8.414** acres.

[8]See Footnote # 3.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**
   ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional wetlands in the review area: acres.

7. **Impoundments of jurisdictional waters.**[9]
   As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
   ☐ Demonstrate that impoundment was created from "waters of the U.S.," or
   ☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
   ☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]
☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
   Identify type(s) of waters: .
☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):
☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
   ☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
☒ Other: (explain, if not covered above): **A swale feature (Swale 4) that does not exhibit wetland characteristics, defined bed and banks or an ordinary high water mark is located within the review area. This feature is not considered waters of the United States and thus is not subject to Section 404 regulation** .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):
☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):
☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

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[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
[10] **Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.***

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☐ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☐ Corps navigable waters' study: .
- ☒ U.S. Geological Survey Hydrologic Atlas: .
  - ☐ USGS NHD data.
  - ☒ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: 7.5' Quads: Galena, Ohio .
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: http://datagateway.nrcs.usda.gov/GatewayHome.html.
- ☒ National wetlands inventory map(s). Cite name: Uhttp://wetlandswms.er.usgs.gov/imf/imf.jsp?site=extract_tool, 2010 .
- ☐ State/Local wetland inventory map(s): .
- ☒ FEMA/FIRM maps: 39049C0069K .
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): Google Maps .
  or ☒ Other (Name & Date): Appendix B of Preliminary Jurisdictional Waters Determination Report 40 +/- Acre Kilgore Site...Decmeber 15, 2010; Appendix B of May 2, 2011 Supplemental Information Packet .
- ☒ Previous determination(s). File no. and date of response letter: U/T Spring Run-LRH-2008-26-SCR April 29, 2008 .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☒ Other information (please specify): City of Westerville Stormwater Map, Site Development Plan for Parkside Village Assisted Living Center, Delaware Soil and Water Conservation District Field Tile Location Map from NRCS, http://streamstatsags.cr.usgs.gov/gisimg/Reports/FlowStatsReport517135_201141312210, http://streamstatsags.cr.usgs.gov/gisimg/Reports/BasinCharsReport513801_201141115313, approved JD dated January 19, 2007; .

B. ADDITIONAL COMMENTS TO SUPPORT JD: The 40-acre property located at 600 North Spring Road, at Westerville, in Delaware County, Ohio contains waters of the United States. The site is situated approximately 0.9 mile west of the Hoover Reservoir in the lower sub-watershed of Alum Creek (Hydrologic Unit Code 05060001-160-020). Stream 1 enters the site from its northern boundary. An approved JD was previously issued for this stream in April 2008. At that time, this office verified that Stream 1 was a seasonally flowing intermittent RPW. Under the current JD review, Stream 1 has been determined to be a seasonally flowing intermittent RPW, which is an indirect tributary to Alum Creek, a TNW, and is therefore jurisdictional. Wetlands E and F abut Stream 1. Stream 1 exhibits an ordinary high water mark and defined bed and banks. Stream 1 is intercepted by existing field tile at the east end of Wetland E and flows beneath adjacent Wetland A, which flows off-site to the east into various graded manholes and catch basins before flowing into Spring Run of Alum Creek. The determination that Alum Creek is a TNW is documented on the following jurisdictional determination forms: Huntington District, ODNR Hollenback Boat Launch Ramp, LRH-2010-884-SCR-Alum Creek Lake State Park-TNW and Huntington District, Community Housing Network, LRH-2008-185-SCR-Alum Creek-TNW. .