DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

REPLY TO
ATTENTION OF:

December 19, 2018

COPY

Regulatory Branch
SUBJECT: Jurisdictional Determination for Department of the Army Application No. LRB 2018-01498

Mike Brookbank
Ohio Turnpike and Infrastructure Commission
682 Prospect St
Berea, OH 44017

Dear Mr. Brookbank:

I have reviewed the aquatic resource delineation maps you submitted for your proposal to construct a Toll Plaza along the Ohio Turnpike between County Roads 4 and 5 in Northwest Township, Williams County, Ohio.

I have evaluated your submitted aquatic resource delineation map and have determined that the water boundaries shown on the attached maps accurately represent on-site conditions (Figures 1 and 2). Please note that this jurisdictional determination (JD) includes a Preliminary Jurisdictional Determination for Wetlands A, C, V, X and the Unnamed Tributary to the North Branch of Eagle Creek (Attachment 1: Preliminary Jurisdictional Determination Form) and an Approved Jurisdictional Determination for Ditches I, II, III, IIIA, IV, and Wetland B (Attachment 2: Approved Jurisdictional Determination Form).

Preliminary Jurisdictional Determination

Preliminary JDs are non-binding written indications that there may be Waters of the United States (WOUS) on your parcel and approximate locations of those waters. Preliminary JDs are advisory in nature and may not be appealed.

Pursuant to Regulatory Guidance Letter 16-01, any permit application made in reliance on this Preliminary JD will be evaluated as though all wetlands or waters on the site are regulated by the Corps. Further, all waters, including wetlands will be used for purposes of assessing the area of project related impacts and compensatory mitigation. If you require a definitive response regarding Department of the Army (DA) jurisdiction for any or all of the waters identified on the submitted drawings, you may request an approved jurisdictional determination from this office. If an approved JD is requested, please be aware that this is often a lengthy process and we may require the submittal of additional information.

I have enclosed the Preliminary JD Form with this letter. The form and attached table (Attachment 1) identifies the extent of waters included in the Preliminary JD and specific terms and conditions of the Preliminary JD. **Please sign and return a copy of this form to my attention so that I may complete my evaluation of your file. If you do not respond within**

COPY

fifteen days of this letter, I will assume you no longer wish to pursue the jurisdictional determination and will withdraw your application.

In accordance with Regulatory Guidance Letter 16-01, "Preliminary JDs are not definitive determinations of areas within regulatory jurisdiction and do not have expirations dates." However, I strongly recommend that the boundaries of WOUS be re-evaluated by a qualified wetland biologist after five years of the date of this letter. This will ensure that any changes are appropriately identified and you do not inadvertently incur a violation of Federal law while constructing your project or working on your project site.

This determination has been conducted only to identify the limits of waters that may be subject to Corps Clean Water Act or Rivers and Harbors Act jurisdiction. This delineation/ determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resource Conservation Service prior to starting work.

Approved Jurisdictional Determination

In addition, I have determined that Ditches I, II, III, IIIA, IV, and Wetland B do not meet the definition of waters of the U.S. Accordingly, you do not need Department of Army authorization to commence work in these areas.

I encourage you to contact the appropriate state and local governmental officials to ensure that the proposed work complies with their requirements.

This letter contains an approved JD for Ditches I, II, III, IIIA, IV, and Wetland B on the subject parcel. If you object to this JD, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal the above JD, you must submit a completed RFA form within 60 days of the date on this letter to the Great Lakes/Ohio River Division Office at the following address:

Jacob Siegrist
Regulatory Appeals Review Officer
US Army Corps of Engineers
Great Lakes and Ohio River Division
550 Main Street, Room 10524
Cincinnati, Ohio 45202-3222
Phone: 513-684-2699 Fax: 513-684-2460

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 C.F.R. part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by February 16, 2019.

Regulatory Branch
SUBJECT: Jurisdictional Determination for Department of the Army Application No. 2018-01498

It is not necessary to submit an RFA to the Division office if you do not object to the determination in this letter.

A copy of this letter has been forwarded via e-mail to Ms. Natalie Dingledine of DLZ.

Questions pertaining to this matter should be directed to me at 419 898-3491, by writing to the following address: U.S. Army Corps of Engineers, 240 Lake Street, Unit D, Oak Harbor, Ohio 43449, or by e-mail at: brian.p.swartz@usace.army.mil

Sincerely,

B. Swartz COPY

Project Manager
Biologist

Enclosures

Ohio Transportation and Infrastructure Commission -
Proposed Westgate
D/A Processing No. LRB 2018-01498
Williams County, Ohio Quad: Nettle Lake
Sheet 1 of 2

Ohio Transportation and Infrastructure Commission - Proposed Westgate
D/A Processing No. LRB 2018-01498
Williams County, Ohio Quad: Nettle Lake
Sheet 2 of 2

DLZ
ARCHITECTURE • ENGINEERING • PLANNING
SURVEYING • CONSTRUCTION SERVICES

Figure: 1
Westgate Toll Plaza
Preliminary Waters of the U.S.
Ohio Turnpike and Infrastructure Comission

DLZ Project No.
1622-1007-00
Author: GH

0 125 250 Feet
1 inch = 250 feet

N W E S

Fig: 1

Date: 11/8/2018

Document Path: M:\Proj\1622\1007\00_Ohio_Turnpike\GIS\MXDs\2018-8\OTIC_Westgate_Toll1.mxd

Data Sources: OGRIP

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Ohio Turnpike and Infrastructure Commission – Mr. Mike Brookbank	File Number: 2018-01498	Date:19 Dec 2018

Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
X	APPROVED JURISDICTIONAL DETERMINATION	D
X	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.

- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact: Brian Swartz U.S. Army Corps of Engineers 240 Lake Street, Unit D Buffalo, New York 14207 419 898-3491 brian.p.swartz@usace.army.mil	If you only have questions regarding the appeal process you may also contact: Attn: Jacob Siegrist Great Lakes and Ohio River Division CELRD-PD-REG 550 Main Street, Room 10524 Cincinnati, OH 45202-3222 513-684-2699; FAX 513-684-2460

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

_____ Signature of appellant or agent.	Date:	Telephone number:

Attachment 1
Preliminary JD Form
Wetlands A, C, V, X and the Unnamed Tributary
to the North Branch of Eagle Creek

Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: 5 september 2018

B. NAME AND ADDRESS OF PERSON REQUESTING PJD:
Mike Brookbank
Ohio Turnpike and Infrastructure Commission
682 Prospect St
Berea, OH 44017

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: USACE Buffalo District, Ohio turnpike and Infrastructure Commission - Mile Post 49 Toll Plaza, LRB-2018-01498

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)

State: Ohio County/parish/borough: Williams City: Edon

Center coordinates of site (lat/long in degree decimal format):

Lat.: 41.62863 Long.: -84.74198

Universal Transverse Mercator:

Name of nearest waterbody: North Branch Eagle Creek

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

X Office (Desk) Determination. Date: 19 December 2018

X Field Determination. Date(s): 23 October 2018

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
Wetland A	41.468977	-82.009239	0.23 acre	Wetland	Section 404

Wetland C	41.46878	-82.01045	0.01 acre	Wetland	Section 404
Wetland V	41.6280	-84.73793	0.03 acre	Wetland	Section 404
Wetland X	41.47070	-82.01114	1.50 acre	Wetland	Section 404
UNT to the North Branch of Eagle Creek	41.47098	-82.01109	30 feet	Non-wetland	Section 404

1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7)

whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there *"may be"* waters of the U.S. and/or that there *"may be"* navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for PJD (check all that apply)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

X Maps, plans, plots or plat submitted by or on behalf of the PJD requestor:
Map: 20 July 2018

X Data sheets prepared/submitted by or on behalf of the PJD requestor.
XOffice concurs with data sheets/delineation report.
☐ Office does not concur with data sheets/delineation report. Rationale: _____.

☐ 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.

X U.S. Geological Survey map(s). Cite scale & quad name: Avon, Ohio 1:24,000.

X Natural Resources Conservation Service Soil Survey. Citation: NRCS - ORM.

X National wetlands inventory map(s). Cite name: Avon, Ohio.

☐ State/local wetland inventory map(s): _____.

☐ FEMA/FIRM maps: _____

☐ 100-year Floodplain Elevation is: ____. (National Geodetic Vertical Datum of 1929)

X Photographs:
X Aerial (Name & Date): Google Earth – 1994, 2000, 2003 to 2007, 2010, 2011, and 2014 to 2017.
X Other (Name & Date): Applicant – 30 May 2018.

☐ Previous determination(s). File no. and date of response letter: _____.

☐ Other information (please specify): _____.

<u>IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.</u>

B. Smith 19 Dec 2018
COPY

Signature and date of Regulatory staff member completing PJD

Signature and date of person requesting PJD (REQUIRED, unless obtaining the signature is impracticable)[1]

[1] Districts may establish timeframes for requestor to return signed PJD forms. If the requestor does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

Attachment 2
Approved JD Form
Ditches I, II, III, IIIA, IV, and Wetland B

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): 19 December 2018

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): LRB 2018-01498

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State:OH County/parish/borough: Williams City: Edon

Center coordinates of site (lat/long in degree decimal format): Lat. 41.62863, Long. --84.74198.

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 .

☐ 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: .

☒ Office (Desk) and Field Determination. Office/Desk Dates: 23 October 2018 Field Date(s): 19 December 2018.

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: 5 September 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: 5 June 2018.

☐ 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: .

Revised Title/Date: .

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

☐ Corps navigable waters study. Title/Date: .

☐ CorpsMap ORM map layers. Title/Date: .

☐ USGS Hydrologic Atlas. Title/Date: .

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

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

☒ USGS maps. Scale & quad name and date: Nettle Lake 1:24,000 (ORM Maps)..

☒ USDA NRCS Soil Survey. Citation: ORM maps.

☒ USFWS National Wetlands Inventory maps. Citation: Nettle Lake 1:24,000 (ORM Maps).

☐ State/Local wetland inventory maps. Citation: .

☐ FEMA/FIRM maps. Citation: .

☒ Photographs: ☒ Aerial. Citation: Google Earth 1994, 2000, 2003 to 2007, 2010, 2011, and 2014 to 2017. or ☒ Other. Citation: Applicants No date.

☐ LiDAR data/maps. Citation: .

☐ Previous JDs. File no. and date of JD letter: .

☐ 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 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: Ditches I, III and IV are ephemeral channels constructed along the north and south sides of the Turnpike. Ditch II is an ephmeral man made channel that drains water from the south to north side of turnpike. Wetland B is part of Ditch II and is within water fill depression constructed as part of the Turnpike drainage.

[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.

Default field entry is "N/A". Delete "N/A" and fill out all fields in the table where applicable for waters/features present in the review area.

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
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.
N/A	Choose an item.	N/A	Choose an item.	N/A
N/A	Choose an item.	N/A	Choose an item.	N/A
N/A	Choose an item.	N/A	Choose an item.	N/A
N/A	Choose an item.	N/A	Choose an item.	N/A

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
N/A	N/A	N/A
N/A	N/A	N/A
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
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.
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

Non-Jurisdictional Waters

Default field entry is "N/A". Delete "N/A" and fill out all fields in the table where applicable for waters/features present in the review area.

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
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.
Ditch I	Constructued ditch with ephmeral flow – not regulated under 2015 CWR
Ditch II	Constructued ditch with ephmeral flow – not regulated under 2015 CWR
Wetland B	Stromwater control feature - not regulated under 2015 CWR
Ditch III	Constructed ditch with ephemral - not regulated under 2015 CWR
Ditch IV	Constructed ditch with ephemral - not regulated under 2015 CWR

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

Table 1. Waterway Impacts Due to Culvert Maintenance and Wetland Fill

Streams									Fill within the OHWM						Total Impacts Upstream to Downstream			
Site ID	Station	Lat	Long	Length within Project Area	Stream Width (LF)	Stream Depth (LF)	OHWM	Stream Bottom Elevation	Proposed Other (steel , etc.) Fill (CY)	Proposed Soil Fill (CY)	Proposed Concrete Fill (CY)	Proposed Rock Fill (CY)	Total Proposed Fill (CY)	Total Proposed Fill (AC)	Temporary Fill Impacts (LF)	Permanent Impacts (LF)	Existing Culverts (LF)	Total New Impact (LF)
UNT	193.98	41.6275	-84.73937	450	upslope, 15 Bankfull - 5	0.4	932.9	932.5	0	0	2.1	4.9	6.8	0.006	50.0	71.0	200.0	121.0

Wetlands					Fill* within the Wetland Boundary										Total Impacts	
					Proposed Other (steel , etc.) Fill		Proposed Soil Fill		Proposed Concrete Fill		Proposed Rock Fill		Total Proposed Fill		Temporary Fill Impacts	Permanent Impacts
Site ID	Station	Lat	Long	Total of Wetland In Project Area (AC)	(CY)	(AC)	(CY)	(AC)	(CY)	(AC)	(CY)	(AC)	(CY)	(AC)	(AC)	(AC)
Wetland A[1]	193.98 to 202.5	41.6287333	84.735277	> 20 acres	0	0	2498	1.55	80	0.17	1.6	0.001	2580	1.72	0	1.72
Wetland C	193 to 194	41.6278194	84.738888	> 1 acre	0	0	193	0.12	0	0	0	0	193	0.12	0	0.12
Wetland V	194 to 195	41.62796	84.738162	0.03	0	0	48	0.03	0	0	0	0	48	0.03	0	0.03
				SUM:									2820.6	1.87	0	1.87

* 1 foot depth of fill used for volume calculations in wetlands

LF = Linear Feet, AC = Acres, CY = Cubic Yards, RCP = Rock Channel Protection

[1] Impacts of culvert extension included in these calculations

DLZ
ARCHITECTURE • ENGINEERING • PLANNING
SURVEYING • CONSTRUCTION SERVICES

Figure: 1
Westgate Toll Plaza
Preliminary Waters of the U.S.
Ohio Turnpike and Infrastructure Comission

DLZ Project No.
1622-1007-00
Author: GH

0 125 250 Feet
1 inch = 250 feet

N
W E
S

Fig: 1

Document Path: M:\Proj\1622\1007\00_Ohio_Turnpike\GIS\MXDs\2018-8\OTIC_Westgate_Toll1.mxd

Date: 11/9/2018

Data Sources: OGRIP