

**TRADITIONAL NAVIGABLE WATERWAYS (TNWs) IN THE BUFFALO DISTRICT  
APPROVED JURISDICTIONAL DETERMINATION FORM  
U.S. Army Corps of Engineers**

**BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 7/17/08

**B. BACKGROUND INFORMATION:** As stated in Appendix D of the US Army Corps of Engineers (Corps) Jurisdictional Determination Form Instructional Guidebook: “when determining whether a water body qualifies as a “traditionally navigable water (TNW)” relevant considerations include whether a Corps District has determined that the water body is a navigable water of the United States pursuant to 33 C.F.R § 329.14, or the water body qualifies as a navigable water of the United States under any of the tests set forth in 33 C.F.R. § 329, or a federal court has determined that the water body is navigable-in-fact under federal law for any purpose, or the water body is “navigable-in-fact” under the standards that have been used by the federal courts. In addition, Appendix D affirms that EPA and the Corps will continue to assert jurisdiction over “[a]ll waters which are currently used, or 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.” 33 C.F.R. § 328.3(a)(1); 40 C.F.R. § 230.3(s)(1).

The following provides the rationale and supporting documentation for TWN designation pursuant to Appendix D for the subject water body occurring within the Buffalo District’s regulatory boundaries in the states of New York and Ohio. Posting of this jurisdictional determination establishes Corps jurisdiction over this TNW under Section 404 of the Clean Water Act. The Buffalo District reserves the right to revise this determination at anytime as additional information warrants. The Buffalo District has determined that a site/project specific jurisdictional determination involving this TNW is not required as a TNW designation has already been completed. This and other approved jurisdictional determinations for TNWs are posted on the Buffalo District’s regulatory website at <http://www.lrb.usace.army.mil/regulatory/jd.htm>. In addition, the current list of TNWs, including extent of each designation, occurring within the geographic limits of the Buffalo District may also be found on the Buffalo District’s regulatory website at <http://www.lrb.usace.army.mil/regulatory/TNWny.pdf> and <http://www.lrb.usace.army.mil/regulatory/TNWoh.pdf>

**C. TNW (DA No.)/LOCATION**

TNW: **Cuyahoga River, Lake Rockwell, LaDue Reservoir (upstream to U.S. Rte 422) and Bridge Creek**

State: Ohio Counties: Geauga, Portage and Summit.

Municipalities: The cities of: Akron, Mantua, Streetsboro, Kent, Cuyahoga Falls, Munroe Falls, Tallmadge; and the townships of: Burton, Franklin, Hiram, Mantua, Shalersville, Troy, and Auburn.

**D. REVIEW PERFORMED FOR SITE EVALUATION:**

Office (Desk) Determination. Date: 7/17/08

Field Determination. Date(s):

**SUMMARY OF FINDINGS**

**CWA SECTION 404 DETERMINATION OF JURISDICTION.**

The subject water body is a “*water of the U.S.*” under Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328).

**a. Limits (boundaries) of TNW designation:** This designation includes all areas below the ordinary high water mark of the Cuyahoga River extending from the upstream limits at the confluence of the East Branch and West Branch of the Cuyahoga River in the Town of Burton, Geauga County, to the downstream confluence with the Little Cuyahoga River in the City of North Akron, Summit County, Ohio. Additionally, this designation includes LaDue Reservoir and Bridge Creek from the U.S. Route 422 crossing in Auburn Township, Geauga County downstream to the confluence of Bridge Creek and the Cuyahoga River in Troy Township, Geauga County. The extents of the TNWs described herein are depicted on the attached figure.

**b. Rationale supporting determination:** This determination is based on the review and compilation of published information, reports/studies, and field observations to characterize the historical, present and/or potential use of this water body for navigation including consideration of its use or potential susceptibility to use in interstate and foreign commerce. During this process the following information was documented:

1. The physical characteristics, including its depth and size, indicate that the waterbody has the capacity to be navigated by watercraft.
  - i. Length of the Cuyahoga River is approximately 40 miles. Channel varies in width from 25 to 200 feet and includes Lake Rockwell. Water depths are generally less than 10 feet but deepen to approximately 30 feet in Lake Rockwell.
  - ii. Several barriers, i.e. dams, occur on the Upper Cuyahoga River. The ODNR Division of Watercraft and [www.keelhauler.org](http://www.keelhauler.org) note their locations and provides directions for portage and access.
  - iii. Length of Bridge Creek is approximately 2 miles. Channel varies in width from 15 to 55 feet and originates from LaDue Reservoir. Water depths are generally less than 10 feet.
  - iv. LaDue Reservoir is approximately 1420 acres with water depths up to 21 feet.
2. The waterbodies are currently used and were historically used for activities involving navigation and interstate commerce, such as recreational commercial navigation.
  - i. On June 26, 1974, twenty-five miles of the Cuyahoga River from the Troy-Burton Township Line in Geauga County to State Route 14 in Streetsboro was designated by the State of Ohio as one of its 11 State Scenic Rivers, and has become very popular for canoeing activities.
  - ii. The physical characteristics, including its depth and size, indicate that the Cuyahoga River upstream from its confluence with the Little Cuyahoga River has the capacity to be navigated by watercraft. The Cuyahoga River is designated as a Section 10 navigable waterway downstream from its confluence with the Little Cuyahoga River in the

- City of Akron, Summit County. The physical characteristics of the upper Cuyahoga River within the limits of the designation (width, depth, lack of impediments) are conducive to navigation by non-motorized watercraft. Aerial photograph interpretation indicates that the river is approximately 50 feet wide at the upper limits of the designation with a gradual increase in width to 360 feet wide on the upstream side of the Ohio Edison Company Power Dam in Cuyahoga Falls. The river decreases in width downstream from the dam to 100 feet wide. Depth may vary greatly throughout the year, however the creek is considered to be perennial well upstream from the upper limits of the designation (Burton-Troy township line). Travel by canoe and kayak within the designation has been documented. Several recreational outfitters provide canoe and kayak tours at the upstream designation of the river, with an emphasis on the State Scenic section. These outfitters noted interest in interstate and foreign use of their guide and rental service on their web pages. In addition, a public boat launch administered by the Geauga Park District is located at Eldon Russell Park, located at the Burton-Troy township line in Geauga County. The recreational paddling organization Keel Hauler also provides a detailed guide of 13 canoe and kayak access points from the upstream designation to the confluence with the Little Cuyahoga River. The designation also includes 10 recreational parks administered by city, county, and state entities that offer access to the river. Impedances to recreational boaters include the Ohio Edison power dam in Cuyahoga Falls and three low-head dams located in Munroe Falls. These features are located near the downstream end of the designation and serve as obstacles that users must portage around. Boaters typically put-in or take-out at these features to facilitate navigation in these areas. The designation flows through a mix of public and private property. Based on the above, the upper Cuyahoga River is currently used for activities involving navigation and interstate commerce, such as recreational commercial navigation.
- iii. In addition, the Ohio Environmental Protection Agency (OEPA) classifies the upper Cuyahoga River as warm water aquatic life habitat, and Lake Rockwell as exceptional warm water habitat.
  - iv. Lake Rockwell was formed with the construction of the Lake Rockwell Dam on the Cuyahoga River in Portage County, Ohio. Construction of Lake Rockwell Dam was completed in 1913. At normal levels it has a surface area of 1.3 square miles. It is property of City of Akron and is utilized by the City for drinking water. Although this water is not advertised as a recreational fishing water, several bait shops are located adjacent to the lake on Rockwell Road.
  - v. LaDue Reservoir was constructed in 1963 on a tributary of the Cuyahoga River to provide additional water supply to the City of Akron. The Division of Wildlife began managing the fish populations in the reservoir in 1983, under agreement with the City of Akron. The City of Akron operates and maintains a boat ramp and public restroom facilities on the western shoreline at the south end of Valley Road. The City of Akron also maintains an unimproved boat ramp at the south end of the lake off State Route 44. Several private bait and tackle shops can be found in the area. Boats are limited to electric motors only.
  - vi. The Ohio Environmental Protection Agency (OEPA) classifies Bridge Creek as warm water aquatic life habitat, serving as an agricultural and industrial water supply and a primary contact recreation water body.

Conclusion: Collectively, the above discussed factors demonstrate that the Cuyahoga River (from its confluence with the Little Cuyahoga River to its upstream limit in Burton Township), Lake Rockwell, LaDue Reservoir, and Bridge Creek are navigable-in-fact, resulting in their designations as a TNW for purposes of CWA jurisdictional determinations and are currently used in interstate or foreign commerce associated with commercial recreational navigation activities and were historically used in interstate or foreign commerce associated with the transportation of goods and industry, including logging, furniture manufacturing and mills. This determination establishes Corps jurisdiction over this water body as a TNW under Section 404 of the Clean Water Act, pursuant to 33 C.F.R. Part 328.3(a)(1).

#### **DATA SOURCES.**

##### **SUPPORTING DATA. Data reviewed for JD (check all that apply):**

- 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: Akron East, Akron West, Aurora, Burton, Hudson, Kent, Mantua
- USDA Natural Resources Conservation Service Soil Survey. Citation:
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): OSIP color 2-foot resolution, 2006  
or  Other (Name & Date):
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

<http://www.dnr.state.oh.us/watercraft/streams/cuyahoga/tabid/2419/Default.aspx>

<http://www.camphicanoe.com/>

<http://www.keelhauler.org/>

<http://www.epa.state.oh.us/dsw/rules/3745-1.html#use%20designations>

<http://www.dnr.state.oh.us/dnap/sr/cuyahoga/tabid/984/Default.aspx>

<http://www.dnr.state.oh.us/Home/FishingSubhomePage/LakeMapLandingPage/LaDueReservoirFishingMap/tabid/19530/Default.aspx>

