



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 7/31/2020
 ORM Number: LRB-2019-01554
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Ohio City: Westlake County/Parish/Borough: Cuyahoga
 Center Coordinates of Review Area: Latitude 41.47306 Longitude -81.96813

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³			
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Stream	490	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
			The stream was flowing at the time of the site visit. It is approximately 20 feet wide and had several inches of flowing water. Based on the size of the stream and the fact that it was flowing during normal climatological conditions (see Typical Year Assessment below) demonstrates it is perennial. Moreover, the Westlake, OH 7.5 min quad identifies this stream – further supporting the conclusion that it is perennial.

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination	
N/A.	N/A.	N/A.	N/A.	

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination	
N/A.	N/A.	N/A.	N/A.	

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
W-A, W-C, and furrows	0.02, 0.24, and 0.17 acre(s)	(b)(1) Non-adjacent wetland.	Wetlands A, C, and furrows do not meet any of the four criteria that would make an (a)(4) adjacent water subject to jurisdiction under Section 404 of the Clean Water Act. Wetlands A, C, and furrows were circumnavigated during the site visit. No defined channels/tributaries/ditches were observed flowing from Wetlands A, C, and furrows to any (a)(1-3) water. Based on site observations there was no evidence that the onsite stream's typical year flow (i.e. debris, leaf wracking) reaches the onsite wetlands. All stream flow is confined entirely within its banks. The stream has been historically dredged and now the bed is located approximately 6-8 feet below the top of bank. Additionally, there are no natural berms or the like located between the a(1-3) water and wetland.	

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

- Information submitted by, or on behalf of, the applicant/consultant: [Wetlands Investigation, Lot 14 C-1 6 acres Viking Parkway, August 28, 2019](#)
This information is sufficient for purposes of this AJD.
Rationale: [N/A](#)
- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial and Other: Title\(s\) and/or date\(s\)](#).
- Corps site visit(s) conducted on: [June 18, 2020](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\)](#).
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Title\(s\) and/or date\(s\)](#).

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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- USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).
- USGS topographic maps: [Westlake, OH 7.5 min](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): The subject parcel's latitude/longitude was entered into the Antecedent Precipitation Tool (APT) which was used to determine average precipitation, total precipitation over the 90 days preceding the site visit, and whether the June 18, 2020 site visit was conducted under dry, normal or wet conditions. The APT pulled precipitation data from the nearest weather station – Cleveland. The APT shows that normal precipitation at the location of the site is between the 30th (2.6") and 70th (4.2") percentiles. The APT indicates that 0-30 days prior to the visit precipitation was 1.9" which is below the 30th percentile of 2.6". Thirty to 60 days prior the APT indicates that precipitation was 7.2" which is above the 70th percentile of 4.2" and 60 to 90 days prior precipitation was 5.5" which is also above the 70th percentile. Therefore, two-three months prior to the Corps site visit rainfall was above 70th percentile typical precipitation and one month prior to the date of the site visit precipitation was considered to be dry for that time of year.

The APT, using a weighted approach, indicates that the site visit was conducted during a period of normal precipitation. This further confirms that the onsite stream channel is perennial as it was flowing at the time of the site visit during a period of normal precipitation.

C. Additional comments to support AJD: The onsite stream flows into Porter Creek, which flows into Lake Erie.