



**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): 8/28/2020
 ORM Number: LRB-2018-01007
 Associated JDs: LRB-2018-01007 PJD
 Review Area Location¹: State/Territory: Ohio City: Twinsburg County/Parish/Borough: Summit
 Center Coordinates of Review Area: Latitude 41.286749 Longitude -81.430883

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 1 – INT and Stream 2 - INT	421 and 518	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
			Onsite observations indicate that Streams 1 and 2 – INT are intermittent a(2) tributaries. Water was observed within both stream channels. The streams were not flowing but had numerous pools. Since the site visit was conducted during a period of normal precipitation it was determined that the streams’ flow is intermittent (see Typical Year Assessment below). Moreover, there was a distinct difference in channel width, substrate, and topography between the intermittent and ephemeral portion of these two tributaries. The intermittent portion of these streams

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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Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
			are several feet wider than the ephemeral portions and the substrate is comprised of cobble/boulder whereas the ephemeral portion is comprised of silt/sand. The different substrate between the intermittent portion and ephemeral portion is indicative of additional flow. Moreover, the intermittent portion is located below a distinct elevation change, with steeper grade heading downstream. This change, coupled with the channel width and substrate difference provides evidence that these streams are influenced by groundwater in addition to precipitation.

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
Wetland A	0.22 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Onsite observations indicate that Wetland A directly abuts Stream 1 – INT, a Clean Water Act Section 404 a(2) tributary.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Stream 1 - EPH	233 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 1- EPH was observed to be an ephemeral stream channel. This was based on a combination of the following - channel size, observed substrate, lack of flow, and absence of groundwater. The channel was approximately 3 feet in width, with silt substrate – which can be evidence of infrequent flow. There was no observed flow or pools (despite the fact that the visit was conducted during a normal period of precipitation (see Typical Year Assessment below)), and it was determined that the entire watershed size is 1-2 acres; so, unless groundwater is present there is not a sufficient amount of precipitation to make the stream

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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REGULATORY PROGRAM
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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				intermittent or perennial. While onsite, Corps staff walked the length of the stream channel looking for evidence of groundwater influence - none were observed. There were no observed seeps or springs, and topography is relatively flat so none would be expected. In addition, vegetation (i.e. skunk cabbage, royal fern) that are most commonly observed in areas of groundwater influence were not observed onsite nor were oxidized rhizospheres. Therefore, it was determined there is no groundwater influence and hydrology is strictly from precipitation. In addition, to confirm onsite observations the Twinsburg, OH 7.5 min USGS Quad was reviewed to determine presence/absence of onsite stream channels. The USGS quad does not identify any stream channels onsite corresponding to the location of Stream 1 - EPH. Thus, based on the above, it was determined that both onsite Stream 1 – EPH is an excluded ephemeral stream.

Excluded waters ((b)(1) – (b)(12)): ⁶				
Exclusion Name	Exclusion Size		Exclusion ⁷	Rationale for Exclusion Determination
Stream 2 - EPH	512	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 2 - EPH was observed to be an ephemeral stream channel. This was based on a combination of the following - channel size, observed substrate, lack of flow, and absence of groundwater. The channel was approximately 3 feet in width, with silt substrate – which can be evidence of infrequent flow. There was no observed flow (despite the fact that the visit was conducted during a normal period of precipitation (see Typical Year Assessment below)), and it was determined that the entire watershed size is 1-2 acres; so, unless groundwater is present there is not a sufficient amount of precipitation to make the stream intermittent or perennial. While onsite, Corps staff walked the length of the stream channel looking for evidence of groundwater influence - none were observed. There were no observed seeps or springs, and topography is relatively flat so none would be

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Excluded waters ((b)(1) – (b)(12)): ⁶				
Exclusion Name	Exclusion Size		Exclusion ⁷	Rationale for Exclusion Determination
				expected. In addition, vegetation (i.e. skunk cabbage, royal fern) that are most commonly observed in areas of groundwater influence were not observed onsite nor were oxidized rhizospheres. Therefore, it was determined there is no groundwater influence and hydrology is strictly from precipitation. In addition, to confirm onsite observations the Twinsburg, OH 7.5 min USGS Quad was reviewed to determine presence/absence of onsite stream channels. The USGS quad does not identify any stream channels onsite corresponding to the location of Stream 2 - EPH. Thus, based on the above, it was determined that both onsite Stream 2 – EPH is an excluded ephemeral stream.

Excluded waters ((b)(1) – (b)(12)): ⁸				
Exclusion Name	Exclusion Size		Exclusion ⁹	Rationale for Exclusion Determination
Wetlands B, C, D, F, G, H, and I	0.07, 0.03, 0.15, 0.11, 0.04, 0.04, 0.02	acre(s)	(b)(1) Non-adjacent wetland.	Wetlands B, C, D, F, G, H, and I 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 B, C, D, F, G, H, and I were circumnavigated during the site visit. No defined channels/tributaries/ditches were observed flowing from Wetlands B, C, D, F, G, H, and I to any (a)(1-3) water. Wetlands B, C, D, F, G, H, and I are located approximately 350 LF from the nearest a(1-3) water (a(2) located offsite. Based on site observations the nearest a(1-3) waters (Streams 1 and 2 – INT) would not flood any of the wetland areas at least once during a typical year. The nearest evidence of typical year flow (i.e. debris, leaf wracking) is located approximately 5 feet from these two streams' banks. Also, there are no natural berms or the like located between the a(1-3) water and wetland.

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Excluded waters ((b)(1) – (b)(12)): ¹⁰				
Exclusion Name	Exclusion Size		Exclusion ¹¹	Rationale for Exclusion Determination
Wetland E	0.07	acre(s)	(b)(1) Non-adjacent wetland.	Wetland E directly abuts Stream 2 – EPH, an excluded b(3) ephemeral feature. Therefore, it is also an excluded feature. Onsite observations indicate that Wetland E’s only connection to the downstream a(1) water is through Stream 2 – INT.

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: [Request for Approved Jurisdictional Determination and Nationwide Permit Modification, Summit Commerce – Old Mill Road, City of Twinsburg, Summit County, Ohio, CEC Project 181-454, Civil & Environmental Consultants, Inc., July 29, 2020](#)

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: [December 20, 2018](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [LRB-2018-01007-PJD, February 28, 2019](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Title\(s\) and/or date\(s\)](#).
- USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).
- USGS topographic maps: [Twinsburg, 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	<i>N/A.</i>
USDA Sources	<i>N/A.</i>
NOAA Sources	<i>N/A.</i>
USACE Sources	<i>N/A.</i>
State/Local/Tribal Sources	<i>N/A.</i>
Other Sources	<i>N/A.</i>

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 Corps’ site visit, and whether the site visit was conducted under dry, normal or wet conditions. The APT pulled precipitation data from the nearest seven weather stations – Ravenna 2 S, Macedonia 0.7 NNW, Macedonia 1.2 WNW, Streetsboro 2.1 SSW, Akron, Akron Fulton Intl AP, and](#)

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Chardon. The APT shows that normal precipitation at the location of the site is between the 30th (2.3") and 70th (3.8") percentiles. The APT indicates that 0-30 days prior to the visit precipitation was 1.6" which is below the 30th and 70th percentiles. Thirty to 60 days prior the APT indicates that precipitation was 4.9" which is above the 70th percentile of 3.8" and 60 to 90 days prior precipitation was 5.5" which is above the 70th percentile. Therefore, two to three months prior to the site visit rainfall was above the 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.

- C. Additional comments to support AJD:** Streams 1 and 2 – INT flow east for approximately 0.5 miles into Tinkers Creek, an a(2) perennial tributary, which flows north and west approximately 14 miles until flowing into the Cuyahoga River, an a(1) navigable water.