



**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): 8/24/2020
 ORM Number: LRB-2019-01493
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Ohio City: Lodi County/Parish/Borough: Medina
 Center Coordinates of Review Area: Latitude 41.042518 Longitude -81.994831

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
S-3, S-4, S-5, S-7, S-9, S-11	3693.1 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	S-3, S-4, S-5, S-9, and S-11 all flow to S-7 which flows to the West Fork East Branch Black River, which flows to the East Branch Black River, which flows to the Black River, which flows to Lake Erie, a Section 10 water. S-7 is indicated on the USGS map as an intermittent stream. S-3, S-7, S-9, and S-11 are indicated as intermittent streams on the Soil Survey of Medina County (November 1977) map. The applicant classified all of these streams as intermittent based on their October 23, 2019, site visit when the APT showed the area was drier than

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
			normal. The applicant completed HHEI's for these tributaries which indicated they all had isolated pools of water ranging from less than 5cm to 22 cm. On-site observations of these streams by the Corps on June 16, 2020, also confirmed isolated pools in the streams when the APT showed normal conditions.

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
W-G, W-H, W-I, W-J, W-K, W-L, W-M, W-P, W-Q	2.57 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	These wetlands were observed to physically abut S-7, an (a)(2) water.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
S-1, S-2, S-6, S-8, S-10	562.9 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The APT showed conditions were on the drier side of drier than normal for the October 23, 2019, applicant site visit and on the wetter side of normal conditions for the June 16, 2020, Corps site visit. With conditions being on the wetter side of normal for the Corps site visit, these streams were still ephemeral. Headwater Habitat Evaluation Index forms completed for the streams on October 23, 2019, all show “No Water or Moist Channel.” The Corps observed ephemeral channels for all of these streams. None of these features are indicated with a blue line (solid or dot-dash) on the USGS map. Except for S-1, these streams are not shown on the Soil Survey of Medina County (November 1977). Stream S-1 is shown on the soil survey map as intermittent but site visits by the Corps and applicant confirmed an ephemeral stream due to no water in the channel on both site visits.

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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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
W-A, W-B, W-C, W-D, W-E, W-F, W-N, W-O, W-R	.35 acre(s)	(b)(1) Non-adjacent wetland.	These wetlands are located entirely onsite. W-A abuts ephemeral stream S-1, W-E and W-F abuts ephemeral stream S-2, and W-N abuts ephemeral stream S-6. Since the stream channels themselves were determined to be excluded (see above), these wetlands are excluded under b(1) as non-adjacent wetlands as well. The remaining wetlands (W-B, W-C, W-D, W-O, and W-R) were circumnavigated and they were not connected to any jurisdictional water, therefore they are not adjacent wetlands and are excluded under b(1) as well. In addition there is no indication that any jurisdictional water floods into any of these wetlands in a typical year or that they are separated by man made or natural berms or barriers from an a(1-3) water. APT reports for October 23, 2019, the data collection date for the Wetland Delineation Report, and the date of the Corps June 16, 2020, site visit, were generated. They showed conditions were on the drier side of drier than normal conditions for the applicant visit and on the wetter side of normal conditions for the Corps visit. With the conditions being on the wetter side of normal conditions on the Corps site visit, these streams still showed ephemeral conditions supporting the conclusion that these wetlands are non-jurisdictional under b(1).
Stormwater Basin 1, Stormwater Basin 2, Stormwater Basin 3	.06 acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	These basins are excluded under (b)(10) due to their creation as stormwater ponds. These 3 ponds first appear on the February 28, 2006, Google Earth aerial photograph with initial ground disturbance for completed portions of this development. The previous Google Earth aerial photograph dated June 20, 2005, shows that there were no indications of wetlands or other waters in the locations of the stormwater basins. Therefore these features were created as part of a stormwater plan and are not jurisdictional.

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: [Wetland Delineation Report-Harris Road Property \(CT Consultants, November 20, 2019\)](#)

This information is sufficient for purposes of this AJD.



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Rationale: [N/A](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial: Google Earth \(4/6/12, 2/28/06, 6/20/05\), Soil Survey of Medina County \(November 1977\), Historicaerials.com \(1952, 1960, 1994\)](#)
- Corps site visit(s) conducted on: [June 16, 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: [Wetland Delineation Report-Harris Road Property \(CT Consultants, November 20, 2019\)](#)
- USFWS NWI maps: [Wetland Delineation Report-Harris Road Property \(CT Consultants, November 20, 2019\)](#)
- USGS topographic maps: [Wetland Delineation Report-Harris Road Property \(CT Consultants, November 20, 2019\)](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Flood inundation mapping	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other information (specify)	Historicaerials.com USGS topos (1941, 1963)

B. Typical year assessment(s):

The APT pulls precipitation data from NOAA's Daily Global Historical Climatology Network. The APT evaluates normal precipitation conditions based on the three 30-day periods preceding the observation date. For each period, a weighted condition value is assigned by determining whether the 30-day precipitation total falls within, above, or below the 70th and 30th percentiles for totals from the same date range over the preceding 30 years. The APT then makes a determination of "normal," "wetter than normal," or "drier than normal" based on the condition value sum. The APT also displays results generated via the Palmer Drought Severity Index and the University of Delaware WebWIMP.

The APT was run for Google Earth Aerial photos for 2005, 2006, and 2012. In addition, APT's were run for the consultant delineation report data collection date of 10/23/2019 and the Corps site visit date of on 6/16/2020. Antecedent Precipitation results indicate various conditions; four years normal and one year wetter than normal. Aerials for all years suggest no inundation to any of the non-jurisdictional wetlands from any a(1)-a(3) water. On the Corps site visit, the conditions were normal and within the upper part of the 30-70% range. On the consultant site visit, the conditions were within the lower part of the 30-70% range.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition	Relates to
41.042518	-81.994831	6/20/2005	-99.99	Not available	Dry Season	10	Normal Conditions	Google Earth map
41.042518	-81.994831	2/28/2006	-99.99	Not available	Wet Season	11	Normal Conditions	Google Earth map
41.042518	-81.994831	4/6/2012	-99.99	Not available	Wet Season	13	Normal Conditions	Google Earth map
41.042518	-81.994831	10/23/2019	-99.99	Not available	Wet Season	9	Drier than Normal	Consultant site visit
41.042518	-81.994831	6/16/2020	-99.99	Not available	Dry Season	11	Normal Conditions	Corp site visit

C. Additional comments to support AJD: [The Corp site visit confirmed the conditions and wetland boundaries described in the delineation report and support documents/maps.](#)