



**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): 8/3/2020
 ORM Number: LRB-2020-00595
 Associated JDs: LRB-2006-00264 and LRB-2020-00595 PJD
 Review Area Location¹: State/Territory: Ohio City: Pittsfield County/Parish/Borough: Lorain
 Center Coordinates of Review Area: Latitude 41.26418 Longitude -82.21832

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

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.

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Stream 1	443.27	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 1 was identified by CESO in their waters delineation report as ephemeral. This is based off of stream and watershed size, and onsite observation including substrate, channel morphology, and flow. Furthermore, a jurisdictional determination issued May 10, 2006, identifies Stream 1 as ephemeral.

Excluded waters ((b)(1) – (b)(12)): ⁶				
Exclusion Name	Exclusion Size		Exclusion ⁷	Rationale for Exclusion Determination
Ditch	Approx. 550	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	These are manmade straight line features with ephemeral flow (they were not flowing at the time of the delineation) dug either as roadside ditches or to drain Wetland 1. Furthermore, a jurisdictional determination issued May 10, 2006, identifies these features as ditches. There is no evidence that they are captured streams nor would they meet the criteria for wetlands.

Excluded waters ((b)(1) – (b)(12)): ⁸				
Exclusion Name	Exclusion Size		Exclusion ⁹	Rationale for Exclusion Determination
Wetland 3	0.71	acre(s)	(b)(1) Non-adjacent wetland.	According to the waters delineation map submitted by CESO there are no channels entering or exiting Wetland 3. A search of the National Wetland Inventory, Historic Soils Survey, and USGS Quad indicates that there is no evidence a channel would be located entering / exiting Wetland 3. Additionally, Wetland 3 is located approximately 500 feet from the nearest a(1-3) water (Stream 3). Since Stream 3 is

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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⁸ 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.

⁹ 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)): ⁸			
Exclusion Name	Exclusion Size	Exclusion ⁹	Rationale for Exclusion Determination
			located downslope from Wetland 3 it is anticipated that water would flow from Wetland 3 towards Stream 3. Since no channels were observed it is expected that a discrete connection between Wetland 3 and an a(1-3) water does not exist. Furthermore, the distance between Wetland 3 and Stream 3, combined with the elevation change between the two waters leads to the conclusion that water from Stream 3 would not inundate Wetland 3 in a typical year. There are also no natural features that would otherwise sever the connectivity of this wetland and an a(1-3) water. Based on the above, Wetland 3 is determined to be an excluded water.

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: [Coles Energy – Mickey Mart / Taco Bell, Oberlin, OH, Natural Resources Technical Report, Pittsfield Township Lorain County, Ohio, March 27, 2020, by CESO, Inc.](#)

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: [Date\(s\)](#).

Previous Jurisdictional Determinations (AJDs or PJDs): [LRB-2006-00264, May 10, 2006, and LRB-2020-00595-PJD](#)

Antecedent Precipitation Tool: [*provide detailed discussion in Section III.B.*](#)

USDA NRCS Soil Survey: [Historic Soil Survey, Lorain County, OH](#)

USFWS NWI maps: [National Wetlands Inventory, Oberlin, OH](#)

USGS topographic maps: [Oberlin, 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.



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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 water resources delineation, and whether the delineation was conducted under dry, normal or wet conditions. The APT pulled precipitation data from the nearest four weather stations – Oberlin, Oberlin 2.8 E, Elyria Lorain CO AP, and Elyria 3 E. The APT shows that normal precipitation at the location of the site is between the 30th (1.9") and 70th (3.0") percentiles. The APT indicates that 0-30 days prior to the visit precipitation was 2.7" which is between the 30th and 70th percentiles. Thirty to 60 days prior the APT indicates that precipitation was 3.2" which is above the 70th percentile of 3.0" and 60 to 90 days prior precipitation was 1.8" which is below the 70th percentile. Therefore, three months prior to the delineation rainfall was below the 30th percentile typical precipitation, two months prior precipitation was above the 70th percentile, and one month prior to the date of the site visit precipitation was considered to be normal 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: N/A