



**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): 9/18/2020
 ORM Number: LRB-2020-00437
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Ohio City: Elyria County/Parish/Borough: Lorain
 Center Coordinates of Review Area: Latitude 41.33513 Longitude -82.09477

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.



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

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland C	0.075 acre(s)	(b)(1) Non-adjacent wetland.	Wetland C meets the definition of a wetland and it is located approximately 1,216 linear feet to the east of Stream 1, an (a)(2) perennial tributary. Stream 1 flows to Jackson Ditch – East Branch Black River, an (a)(2) perennial tributary to Lake Erie, an (a)(1) water. A review of the Lorain County, Ohio GIS Web mapping Application indicates that the bottom elevation of Stream 1 to the top of the bank is a 4-foot elevation difference. The Lorain County, Ohio GIS Web Mapping Application indicates that this wetland lies outside the FEMA 100 year floodzone. Wetland C is separated from Stream 1 by a natural bank. Aerial imagery from multiple on-line resources indicates no evidence of flood waters from Stream 1 reaching Wetland C. There is no evidence of a wrack line, sediment deposits or any other indications of flooding from Stream 1 noted in the wetland. An Antecedent Precipitation Typical Years Assessment was run to coincide with multiple aerial images from 2020 to 2015 obtained from the Lorain County, Ohio GIS Web Mapper. The antecedent precipitation condition for each aerial supports the assumption that flooding from Stream 1, an (a)(2) perennial stream, does not inundate Wetlands C and E within a typical year. Due to the elevation difference between the bottom elevation of Stream 1 and Wetland C, and taking into consideration the distance of Wetland C from Stream 1, it is unlikely that the Wetland is inundated by flooding from Stream 1 in a typical year. It has been determined that that Wetland C meets the Exclusion (b)(1) Non-adjacent wetland.
Wetland E	0.520 acre(s)	(b)(1) Non-adjacent wetland.	Wetland E meets the definition of a wetland and it is located approximately 1,902 linear feet to the east of Stream 1, an (a)(2) perennial tributary. Stream 1 flows to Jackson Ditch – East Branch Black River, an (a)(2) perennial tributary to Lake Erie, an (a)(1) water. A review of the Lorain County, Ohio GIS Web mapping

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.



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

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			<p>Application indicates that the bottom elevation of Stream 1 to the top of the bank is a 4-foot elevation difference. The Lorain County, Ohio GIS Web Mapping Application indicates that this wetland lies outside the FEMA 100 year floodzone. Wetland E is separated from Stream 1 by a natural bank. Aerial imagery from multiple on-line resources indicates no evidence of flood waters from Stream 1 reaching Wetland E. There is no evidence of a wrack line, sediment deposits or any other indications of flooding from Stream 1 noted in the wetland. An Antecedent Precipitation Typical Years Assessment was run to coincide with multiple aerial images from 2020 to 2015 obtained from the Lorain County, Ohio GIS Web Mapper. The antecedent precipitation condition for each aerial supports the assumption that flooding from Stream 1, an (a)(2) perennial stream, does not inundate Wetlands C and E within a typical year. Due to the elevation difference between the bottom elevation of Stream 1 and Wetland E, and taking into consideration the distance of Wetland E from Stream 1, it is unlikely that the Wetland is inundated by flooding from Stream 1 in a typical year. It has been determined that that Wetland E meets the Exclusion (b)(1) Non-adjacent wetland.</p>
Ditch 1	1,100	linear feet	<p>(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).</p> <p>Ditch 1 is located along the western side of Indian Hollow Road. A review of the Lorain County, Ohio GIS Web mapping Application indicates that water in Ditch 1 flows to the north and discharges into East Branch Black River, an (a)(2) water. The East Branch Black River flows into the Black River, which is an (a)(2) perennial tributary that flows to Lake Erie, an (a)(1) water. A review of historic aerial images and historic topographic maps (historicaerials.com), show that for as far back as 1943 there was never a stream channel in the location of the roadside ditch. Aerial images dating back to 1952 show that the ditch was located within upland agricultural areas and there is no indication that the ditch was constructed in wetland. There is no evidence that Ditch 1, or any portion of Ditch 1, is a part of a relocated (a)(2) tributary or is constructed within an (a)(4) adjacent wetland. Based upon a review of available resources, it</p>



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

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			has been determined that Ditch 1 is a (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portion of the ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).

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 and Stream Delineation Report, Indian Hollow Subdivision, Elyria, Lorain County, Ohio, K. Hovnanian Ohio Operation, LLC., March 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: Photographs submitted with the Wetland Delineation Report](#)
- Corps site visit(s) conducted on: [28-JUL-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\(s\)](#).
- USFWS NWI maps: [USACE ORM 2 Dataset](#)
- USGS topographic maps: [USACE ORM2 Dataset](#)

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	USACE ORM2 Dataset
State/Local/Tribal Sources	N/A.
Other Sources	Lorain County GIS Mapping

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.

An APT evaluation was run, associated with Lorain County GIS aerial photos for 28-JUL-2020, Spring 2019, Summer 2019, Spring 2017, Spring 2015. The evaluation was run for five weather station within the vicinity of the site. These weather stations are Elyria Lorain County Airport, Elyria 3.0 SE, Elyria 4 S, North Ridgevill 2.8 SSW, and Elyria 3 E.



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

Results indicate various conditions; On the day of the site visit, the site was experiencing normal precipitation conditions, Spring 2019 had wetter than normal conditions, Spring 2017 had normal precipitation conditions and Spring 2015 had normal precipitation conditions. Aerials for all years suggest no inundation to from Stream 1 to Wetland C and D. For the date of the site visit, there was normal precipitation conditions.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition
41.33513	-82.09477	7/28/2020	-1.25	Mild drought	Dry Season	11	Normal Conditions
41.33513	-82.09477	5/1/2019	2.92	Moderate wetness	Wet Season	16	Wetter than Normal
41.33513	-82.09477	5/1/2017	1.09	Mild wetness	Wet Season	13	Normal Conditions
41.33513	-82.09477	5/1/2015	0.7	Incipient wetness	Wet Season	10	Normal Conditions

C. Additional comments to support AJD: Wetlands C and D do not directly abut Stream 1, a perennial stream. A review of aerial imagery from Lorain County GIS Web Mapping indicate that floodwater from Stream 1 does not inundate Wetlands C and D. There was no evidence of wrack lines or sediment deposition on vegetation that would indicate floodwater from Stream 1 would inundate these wetlands. It has been determined that that Wetlands C and D are not adjacent to an (a)(1)-(a)(3) water. This assessment is based on the following information: 1.) There is a 4-foot elevation difference from the bottom of Stream 1 to the top of the river bank. 2.) Wetland C is 1216 lf to the east of Stream 1 and Wetland E is 1902 lf to the east of Stream 1. 3.) An Antecedent Precipitation Typical (APT) Years Assessment was run to coincide with multiple aerial images from 2020 to 2015 obtained from the Lorain County, Ohio GIS Web Mapper. The APT assessments for 2015, 2017 and 2020 shows normal precipitation conditions and 2019 was a wetter than normal. The antecedent precipitation condition for each aerial supports the assumption that flooding from Stream 1, an (a)(2) perennial stream, does not inundate Wetlands C and E within a typical year. Based upon a review of historical topographic maps and historical aerial imagery, it has also been determined that Ditch 1 was constructed in upland and is not part of a relocated (a)(1)-(a)(3) water, or that the ditch, or any portion of the ditch, was excavated in wetland.