



**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): 9/24/2020
 ORM Number: LRB-2020-01071
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Ohio City: Brecksville County/Parish/Borough: Cuyahoga
 Center Coordinates of Review Area: Latitude 41.348356 Longitude -81.609494

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
Aquatic Feature 1	353	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Aquatic Feature 1 originates at Fitzwater Road. Water flows from Fitzwater Road to the north towards the properties of 10801 and 10815 Fitzwater Road, Brecksville, OH. A review of photographs submitted by the property owner of Aquatic Feature 1 shows a defined bed and bank and an ordinary high water mark. A review of the United States Geological Survey (USGS) Topographic map shows that a stream channel does exist on-site. Water in this stream channel flows into the Cuyahoga River, an (a)(2) water. The Cuyahoga River becomes an RHA Non-tidal water that is on the Buffalo District's Section 10 waters list near its confluence with Lake Erie. The property owner provided pictures of the stream channel that were taken on 04-AUG-2020. Water was not observed flowing in the channel. A review of the Cuyahoga County GIS Web Mapping Applications aerial images for Fall 2019, 2017, 2016 and 2015 and for Spring 2019, 2017, 2016 and 2015, shows that water does not appear to be flowing seasonally in the segment of the channel located on-site. An Antecedent Precipitation Tool evaluation was run, associated with the Cuyahoga County GIS aerial images for Nov 2019, May 2019, Nov 2017, May 2017, Nov 2016, May 2016, Nov 2015 and May 2015. An APT evaluation was also run for 04 AUG 2020. Fall for all years was normal precipitation conditions. Spring 2019, 2017 and 2016 had wetter than normal conditions. Spring 2015 had drier than normal conditions. Aerials for all years suggest that the segment of the stream channel on-site does not flow seasonally, even during times of wetter than normal conditions. 04-AUG 2020 had normal precipitation conditions and Aquatic Feature 1 had no water flow at the date that the photographs of the stream were taken. Based upon a review of the information, it has been determined that Aquatic Feature 1 is a (b)(3)

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
			Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.

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: [Site photographs submitted by the property owner 04-AUG-2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\).](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

Photographs: [Aerial and Other: Photographs of Aquatic Feature 1 submitted to the Corps 4-AUG-2020, Aerial Images from Cuyahoga County GIS Aerial Imagery Fall and Spring 2019, 2017, 2016 and 2015.](#)

Corps site visit(s) conducted on: [A site visit was not conducted.](#)

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 ORM2 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	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Cuyahoga County GIS Website https://gis.cuyahogacounty.us/html5viewer/?viewer=cegis

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 Cuyahoga County GIS aerial images for Nov 2019, May 2019, Nov 2017, May 2017, Nov 2016, May 2016, Nov 2015 and May 2015. The evaluation was run for one weather station within the vicinity of the site. This station is the Cleveland Weather Station. Results indicate various conditions; Fall for all years was normal precipitation conditions, Spring 2019, 2017 and 2016 had wetter than normal conditions. Spring



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2015 had drier than normal conditions. Aerials for all years suggest that the segment of stream channel on-site does not flow seasonally, even during times of wetter than normal conditions.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition
41.348356	-81.609494	11/1/2019	2.26	Moderate wetness	Wet Season	10	Normal Conditions
41.348356	-81.609494	5/1/2019	2.33	Moderate wetness	Wet Season	15	Wetter than Normal
41.348356	-81.609494	11/1/2017	0.55	Incipient wetness	Wet Season	12	Normal Conditions
41.348356	-81.609494	5/1/2017	1.66	Mild wetness	Wet Season	16	Wetter than Normal
41.348356	-81.609494	11/1/2016	-0.77	Incipient drought	Wet Season	14	Normal Conditions
41.348356	-81.609494	5/1/2016	-1.32	Mild drought	Wet Season	18	Wetter than Normal
41.348356	-81.609494	11/1/2015	-1.59	Mild drought	Wet Season	11	Normal Conditions
41.348356	-81.609494	5/1/2015	1.71	Mild wetness	Wet Season	6	Drier than Normal

C. Additional comments to support AJD: Aquatic Feature 1 has a defined bed and bank and a ordinary high water mark and originates at Fitzwater Road. Aquatic feature 1 is visible on the OH-Northfield USGS topographic map. The upper segment of Aquatic Feature 1 receives water from Fitzwater Road and appears to flow only after rain events. It has been determined that the upper portion of Aquatic Feature 1 that is located within the approved jurisdictional determination area only is an ephemeral stream channel. This assessment is based upon the following information: 1.) A review of aerial imagery obtained from the Cuyahoga County GIS website for fall and spring 2019, 2017, 2016 and 2015 shows that the stream channel does not flow intermittently or perennially and 2.) The APT precipitation data indicate that precipitation conditions were normal or wetter than normal for all but one date considered in the APT data analysis. A review of the aerial images suggest that water was not observed flowing intermittently or perennially for those dates considered in the APT analysis and that Aquatic Feature 1 is a (b)(3) ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.