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): 10/27/2020
ORM Number: LRB-2017-01053
Associated JDs: PJD, 2017-01053 (June 19, 2018)
Review Area Location[1]: State/Territory: Ohio City: Cuyahoga Falls County/Parish/Borough: Summit
Center Coordinates of Review Area: Latitude 41.160644 Longitude -81.502976

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.	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.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Stream 1	51	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 1 flows to Mud Brook, which flows to Yellow Creek which flows to the Cuyahoga River, a Section 10 water. Stream 1 is indicated on the USGS map and Soil Survey of Summit County map as an intermittent stream. The applicant classified this stream as intermittent based on their November 20, 2019, site visit when the APT showed the area was under normal conditions. The applicant completed an HHEI for this tributary and it had maximum pool depth of 10-22.5 cm and the stream was flowing. Leaf off Google Earth aerial photos from April 6,

[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.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
				2012, February 28, 2006, and April 8, 2005 show water in the stream under normal and drier than normal conditions according to the APT's.
Mud Brook	24	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Mud Brook flows to Yellow Creek which flows to the Cuyahoga River, a Section 10 water. Mud Brook is indicated on the USGS map and Soil Survey map as a perennial stream. The applicant classified the stream as perennial based on their November 20, 2019, site visit when the APT showed the area was under normal conditions. The applicant completed a QHEI for this stream which indicated pools from 0.7m to 1m in depth and slow currents. The stream clearly had water present on leaf off Google Earth aerial photos of April 6, 2012, February 28, 2006, and April 8, 2005, when the APT's show normal to dry 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.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland A	0.12	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	This wetland physically abuts Mud Brook, an (a)(2) water. Wetland A is a large wetland extending outside of the study area on both sides of Mud Brook.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Wetland B	.02	acre(s)	(b)(1) Non-adjacent wetland.	The southern extent of Wetland B is approximately 50 feet from Mud Brook according to the delineation report. There were no discreet channels connecting Wetland B to an a(1) thru a(3) water. Also there is no indication that any a(1) thru a(3) water backs up at least once in a typical year and inundates Wetland B. The APT showed conditions were normal on the November 20, 2019, when the applicant performed the site visit.

[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.

Excluded waters ((b)(1) – (b)(12)):[4]				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Wetland C	.035	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.	Wetland C was man-made in 2017/2018 in association with a stormwater feature constructed for an adjacent senior living complex Wetland C is located at the western end of a rock channel outlet for the stormwater feature. The applicant stated it was designed and is maintained as part of that stormwater feature. The mapped soil in the area is Lobdell silt loam and it is moderately well drained and 0% hydric. Aerial photos of the area prior to the development of Wetland C were reviewed and do not indicate an aquatic resource was present at this location.

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 Other Surrface Waters Delineation Report (Environmental Design Group, August 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: Google Earth (4/6/12, 2/28/06, 4/9/05), Soil Survey of Summit County (November 1974), Historicaerials.com (1962, 1967)

☒ Corps site visit(s) conducted on: Date(s).

☒ Previous Jurisdictional Determinations (AJDs or PJDs): June 19, 2018 (PJD)

☒ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B*.

☒ USDA NRCS Soil Survey: Wetland and Other Surrface Waters Delineation Report (Environmental Design Group, August 2020)

☒ USFWS NWI maps: Wetland and Other Surrface Waters Delineation Report (Environmental Design Group, August 2020)

☒ USGS topographic maps: Wetland and Other Surrface Waters Delineation Report (Environmental Design Group, August 2020)

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 (1955, 2016)

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 April 6, 2012, February 28, 2006, and April 9, 2005. In addition, an APT was run for the consultant delineation report data collection date of 11/20/2019. Antecedent Precipitation results indicate various conditions; three years normal and one yeare drier 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 consultant site visit, the conditions were above the 30 year normal range.

Latitude	Longitud	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition	Relates to
41.160644	-81.502976	11/20/2019	2.28	Moderate wetness	Wet Season	12	Normal Conditions	Consultant. Site Visit
41.160644	-81.502976	4/6/2012	-1.64	Mild drought	Wet Season	10	Normal Conditions	Google Earth Aerial
41.160644	-81.502976	2/28/2006	-0.29	Normal	Wet Season	8	Drier than Normal	Google Earth Aerial
41.160644	-81.502976	4/9/2005	4.21	Extreme wetness	Wet Season	13	Normal Conditions	Google Earth Aerial

C. Additional comments to support AJD: N/A