



**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): 10/26/2020
 ORM Number: LRB 2019-01109
 Associated JDs: LRH 2015-00540 and LRB 2019-01109
 Review Area Location¹: State/Territory: Ohio City: Toledo County/Parish/Borough: Lucas
 Center Coordinates of Review Area: Latitude 41.65031 Longitude -83.69871

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 |
| Wetland 1 | 0.22 | acre(s) | (b)(1) Non-adjacent wetland. | Wetland 1 does not have a connection to a (1-3) water. Wetland 1 abuts the ephemeral Mayer Ditch an excluded water. |
| Wetland 2 | 0.31 | acre(s) | (b)(1) Non-adjacent wetland. | Wetland 2 does not have a connection to a (1-3) water. This wetland is separated from the ephemeral Mayer Ditch by a man-made berm |
| Wetland 3 | 0.28 | acre(s) | (b)(1) Non-adjacent wetland. | Wetland 3 does not have a connection to a (1-3) water. This wetland is separated from Wetland 2 by an unauthorized asphalt and stone road that divides the wetlands |
| Wetland 4 | 0.035 | acre(s) | (b)(1) Non-adjacent wetland. | Wetland 4 does not have a connection to an a(1-3) water. Wetland4 is a depressional wetland located north of the ephemeral Mayer Ditch an excluded water. |
| Wetland 5 | 0.006 | acre(s) | (b)(1) Non-adjacent wetland. | Wetland 5 does not have a connection to a (1-3) water. Wetland 1 abuts the ephemeral Mayer Ditch an excluded water. |
| Mayer Ditch | 2,066 | linear feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. | Mayer Ditch did not contain flowing water during the consultant’s visits on January 22, 2020, July 13, 2020 nor during a site visit by the Corps on August 13, 2020. In many areas within the stream channel the bottom contained small woody debris that was covered in sediment deposits and in several areas the blackened leaves from the previous fall were present. There were not drift lines or bent vegetation to indicate a flowing stream and there did not appear to be any sediment separation or scouring of the sand bottom. In areas along the undisturbed portion of the stream the stream bottom was partially vegetated with poison ivy (<i>Toxicodendron radicans</i>), small enchanters’ nightshade (<i>Circaia lutetianana</i>) and false nettle (<i>Boehmeria cylindrica</i>). The bottom of the stream was flat, and the only pool area was at the culvert in the approximate center of the property. There were no undercut banks or scour lines along the stream banks. |

III. SUPPORTING INFORMATION

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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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 Parcel # 6547431, 6518 Nebraska Avenue, Toledo, OH 43615 January 23, 2020, July 15, 2020 and August 14, 2020.](#)

This information is and is not sufficient for purposes of this AJD.

Rationale: [The January 22, 2020 reported excluded herbaceous vegetation in the plots even though remanant vegetation was visible in photographs. Also, photographs of soils from the areas near Wetland 3 were determined to be non-hydric due to no redoxmorphic features when redox morphic features were visible in submitted photographs. These issues were corrected in the July 13, 2020 report. Two additional wetlands were identified during the August 13, 2020 site visit which were included in the August 14, 2020 report.](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial and Other: Consutlants Site Photos Jaunary 22 and July 13, 2020, Corps Site Visit Photos August 13, 2020; Google Earth aerials 1993, 2000, 2003 to 2006, 2009 to 2011, 2014 to 2016 and 2018 and EagleView Aerials .](#)
- Corps site visit(s) conducted on: [August 13, 2020](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [LRH 2015-00540 and LRB 2019-01109 \(for the Windjammer Pond](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [USDA Web Soil Survey](#)
- USFWS NWI maps: [NWI Maps - ORM](#)
- USGS topographic maps: [Sylvania 1:24,000 – 1967, 1977, 1980 and 2013](#)

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. |

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 Antecedent Precipitation Tool determined on the dates of the consultants completed the delineation \(January 22 and July 13, 2020\) and the Corps August 13, 2020 site visit. January 22, 2020 the model indicates precipitation was normal. On January 22, 2020 precipitation was](#)



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considered wet as the observed 4.543307 inches is considered wet as it exceeds the 70 percentile of 3.116536 inches. Thirty days prior precipitation was considered dry as the 1.385827 inches was below the 30 percentile of 1.82441. Sixty days prior the observed precipitation was considered wet as the observed 3.468504 exceed the 70 percentile of 2.687402.

On July 13, 2020 the model indicates precipitation was normal. On July 13, 2020 precipitation was considered normal as the observed 3.330709 was between the 30 percentile of 1.876378 inches and 70 percentile of 3.984646 inches. Thirty days prior precipitation was considered normal as the observed 3.996063 inches was between the 30 percentile of 2.290551 inches and 70 percentile of 4.946457 inches. Sixty days prior the observed precipitation was considered dry as the observed 1.350394 inches was below the 30 percentile of 2.6861417 inches.

On August 13, 2020 the model indicates precipitation was considered dryer than normal. On August 13, 2020 precipitation was considered dry as the observed 2.200787 inches was below the 30 percentile of 2.373622 inches. Thirty days prior precipitation was considered normal as the observed 3.330709 inches was between the 30 percentile of 1.831102 inches and 70 percentile of 4.156693 inches. Sixty days prior the observed precipitation was considered normal as the observed 3.807087 was between the 30 percentile of 2.290551 and the 70 percentile of 4.112992 inches.

- C. Additional comments to support AJD:** USGS Topo maps from 1967, 1977, 1980 and 2013 were reviewed and the depict Mayer Ditch in the same approximate location with the Windjammer Pond to east first appearing in the 1980 Topo. The 1980 and 2013 Topos depict the southwest corner of the Windjammer Pond intercepting Mayer Ditch but that does not reflect observations in the field.

Wetlands 2 and 3 are visible in aerials from 1993, 2003 to 2006, 2011, 2014 to 2016, 2018 and 2020.

Jurisdictional Determination LRH 2015-00540 completed on November 15, 2018 determined Mayer Ditch was ephemeral upstream south of Dorr Street which is upstream of the review area and intermittent within the I-475 right of way. These observations are consistent with the Corps observations on August 13, 2020.