



**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): 10/16/2020

ORM Number: LRB-2020-00674

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Ohio City: Middleburg Heights County/Parish/Borough: Cuyahoga

Center Coordinates of Review Area: Latitude 41.37182 Longitude -81.80339

**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)<sup>2</sup>**

§ 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): <sup>3</sup>			
(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

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Man-made drainage channel	658	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).	Onsite observations indicate this feature originates at Pearl Road, flows north through the subject parcel in a straight-line with a 90 degree turn to the east for approximately 100 feet before flowing into a culvert. There was no flow within the 1-2 foot wide channel dominated by sand and silt substrate. In addition to onsite observations, the Berea, OH 7.5 min USGS Quad and historic Cuyahoga County Soils maps were reviewed to determine presence/absence of onsite stream channels. Neither resource identified any stream channels onsite corresponding to the location of this feature. Thus, based on the above, it was determined that the onsite feature is an excluded b(5) ditch.

Excluded waters ((b)(1) – (b)(12)): <sup>6</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>7</sup>	Rationale for Exclusion Determination
Wetlands A and B	0.199 and 0.937	acre(s)	(b)(1) Non-adjacent wetland.	Wetlands A and B do not meet any of the four criteria that would make an (a)(4) adjacent water subject to jurisdiction under Section 404 of the Clean Water Act. Wetlands A and B were circumnavigated during the site visit. The only defined channel/tributary/ditch observed flowing from Wetlands A and B is the man-made drainage channel discussed above which was determined to be an excluded b(5) water. The nearest a(1)-(3) water is located over 500 feet to the north. Water from this resource does not reach Wetlands A or B in a typical year. Therefore, these are b(1) non-adjacent wetlands.

**III. SUPPORTING INFORMATION**

<sup>4</sup> 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.

<sup>5</sup> 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.

<sup>6</sup> 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.

<sup>7</sup> 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: [Surface Water Delineation Report, 7184 Pearl Road, Middleburg Heights, Cuyahoga County, Ohio, prepared for The Omkhar Group, by The Mannik & Smith Group, Inc., Revised May 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: Title\(s\) and/or date\(s\)](#).
- Corps site visit(s) conducted on: [August 26, 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: [Cuyahoga County, Ohio](#)
- USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).
- USGS topographic maps: [Berea, OH 7.5 min](#)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">N/A.</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">N/A.</a>

**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 Corps' site visit, and whether the site visit was conducted under dry, normal or wet conditions. The APT pulled precipitation data from the nearest weather station – Cleveland. The APT shows that normal precipitation at the location of the site is between the 30th \(2.9"\) and 70th \(4.7"\) percentiles. The APT indicates that 0-30 days prior to the visit precipitation was 2.4" which is below the 30th percentile. Thirty to 60 days prior the APT indicates that precipitation was 5.1" which is above the 70th percentile of 4.7" and 60 to 90 days prior precipitation was 2.8" which is below the 30th percentile. Therefore, three months prior to the site visit precipitation was dry, two months prior to the site visit precipitation was above normal, 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](#)