



**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-2020-00941
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Ohio City: Conneaut County/Parish/Borough: Ashtabula
 Center Coordinates of Review Area: Latitude 41.940298 Longitude -80.527590

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
Stream 1 and Stream 2	3650 and 2780	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
			Onsite observations indicate that Streams 1 and 2 are perennial a(2) tributaries. Water was observed flowing within both stream channels at the time of the site visit. Since the site visit was conducted during a period of normal precipitation and water was observed in the stream channels during the site visit it is determined that Streams 1 and 2 are perennial.

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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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Stream 3	1460	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Onsite observations indicate that Stream 3 is an intermittent a(2) tributary. Water was observed within the stream channel. The stream was not flowing but had numerous pools and the substrate was saturated. In addition, vegetation growing within the stream channel was observed to have oxidized rhizospheres, evidence of prolonged (intermittent or perennial flow) hydrology. Since the site visit was conducted during a period of normal precipitation and it had not recently rained it was determined that the stream's flow is intermittent (see Typical Year Assessment below).

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
Wetlands A, C, G, H, I, J and K	0.25, 7.22, 8.76, 2.76, 2.11, 4.1, 0.7	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Onsite observations indicate that Wetlands A, C, G, H, I, J, and K directly abuts Stream 1, 2, or 3 - Clean Water Act Section 404 a(2) tributaries.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland D	0.23	acre(s)	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	Onsite observations indicate that Stream 1, a Clean Water Act Section 404 a(2) tributary, flows into Wetland D during a typical year. The wetland boundary is located approximately 10 feet from Stream 1. Onsite observations show leaf litter and debris wracking from Stream 1 into Wetland D. This area between the stream and wetland did not meet either stream channel nor wetland criteria. However, the observation of leaf litter and debris in the area between Stream 1 and Wetland D, demonstrates flooding of Wetland D, by Stream 1, in a typical year.

D. Excluded Waters or Features



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Ephemeral channel	440	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The channel noted as 'Ephemeral Channel' on the wetland map was confirmed to be an ephemeral channel by onsite observations. This was based on a combination of the following - channel size, observed substrate, lack of flow, and absence of groundwater. The channel was approximately 2 feet in width, with sandy/gravel substrate – which can be evidence of infrequent flow as there is not sufficient flow to dislodge small sized particles. There was no observed flow or pools (despite the fact that the visit was conducted during a normal period of precipitation (see Typical Year Assessment below)), and it was determined that the entire watershed size is 1-2 acres; so, unless groundwater is present there is not a sufficient amount of precipitation to make the stream intermittent or perennial. While onsite, Corps staff walked the length of the stream channel looking for evidence of groundwater influence - none were observed. There were no observed seeps or springs, and topography is relatively flat so none would be expected. In addition, vegetation (i.e. skunk cabbage, royal fern) that are most commonly observed in areas of groundwater influence were not observed in the ephemeral channels watershed nor were oxidized rhizospheres observed in vegetation growing within the channels. Therefore, it was determined there is no groundwater influence and hydrology is strictly from precipitation. In addition, to confirm onsite observations the Ashtabula, OH 7.5 min USGS Quad was reviewed to determine presence/absence of onsite stream channels. The USGS quad does not identify any stream channels onsite corresponding to the location of the ephemeral channel. Thus, based on the above, it was determined that the onsite ephemeral channel is an excluded b(3) ephemeral stream.

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)): ⁶				
Exclusion Name	Exclusion Size		Exclusion ⁷	Rationale for Exclusion Determination
Wetlands B, E, F and L	0.13, 0.66, 0.56 and 0.12	acre(s)	(b)(1) Non-adjacent wetland.	Wetlands B, E, F and L 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 B, E, F and L were circumnavigated during the site visit. No defined channels/tributaries/ditches were observed flowing from Wetlands B, E, F and L to any (a)(1-3) water. Onsite observations indicate that there are uplands (based on the 87 Delineation Manual) between these wetlands and the nearest a(1-3) waters. Also, based on site observations the nearest a(1-3) waters (Stream 1) would not flood any of the wetland areas at least once during a typical year. The nearest evidence of typical year flow (i.e. debris, leaf wracking) is located approximately 5 feet from the stream's bank. Also, there are no natural berms or the like located between the a(1-3) water and wetland.

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: [Jurisdictional Waters \(Wetland\) Report of 118-Acre Study Area, East Conneaut Industrial Park, Innovation Parkway, Conneaut, Ashtabula County, Ohio, prepared by Professional Service Industries, Inc., December 19, 2019 \(Revised August 2020\)](#)

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 and Other: Title\(s\) and/or date\(s\)](#).
- Corps site visit(s) conducted on: [August 25, 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: [Title\(s\) and/or date\(s\)](#).
- USGS topographic maps: [Ashtabula, OH 7.5 min](#)

⁶ 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.

⁷ 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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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 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 four weather stations – Springboro 3 WNW, Ashtabula, Ashtabula Co AP, and Erie Intl AP. The APT shows that normal precipitation at the location of the site is between the 30th (3.2") and 70th (4.6") percentiles. The APT indicates that 0-30 days prior to the visit precipitation was 1.3" 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 4.6" and 60 to 90 days prior precipitation was 4.4" which is between the 30th and 70th percentiles. Therefore, three months prior to the site visit precipitation was normal, 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 dry 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: Streams 1-3 flow west and then north for approximately 1.5 miles into Conneaut Creek, an a(2) perennial tributary, which flows north approximately 1.2 miles until flowing into Lake Erie, an a(1) navigable water.