



**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 2020-01328

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Ohio City: Swanton Township County/Parish/Borough: Erie

Center Coordinates of Review Area: Latitude 41.37853 Longitude -82.64928

**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.          | 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.            | N/A.                               |

| Tributaries ((a)(2) waters): |             |         |   |  |
|------------------------------|-------------|---------|---|--|
| (a)(2) Name                  | (a)(2) Size |         | (a)(2) Criteria   | Rationale for (a)(2) Determination   |
| Dautch Ditch                 | 981         | acre(s) | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year. | Dautch Ditch appears on the 1904 1959 Sandusky Quads in the same approximate location and appears to be a natural tributary following existing contours. The ditch is a tributary to Sawmill Creek a perennial water which flows into Lake Erie. The consultant determined the ditch was intermittent which consistent based upon a review of aerial photographs. Per the Navigable Waters Protection Rule (NWPR) Dautch Ditch appears to have been excavated in an existing tributary |

<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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| Tributaries ((a)(2) waters): |             |                 |  |
|------------------------------|-------------|-----------------|--|
| (a)(2) Name                  | (a)(2) Size | (a)(2) Criteria | Rationale for (a)(2) Determination   |
|                              |             |                 | that contributes surface water flow directly or indirectly to an A1 water on any given year. |

| 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  |
| W-07-024                           | 0.095<br>acre(s) | (a)(4) Wetland abuts an (a)(1)-(a)(3) water. | Wetland W-07-024 abuts the west side of Dautch Ditch. Based upon information and photographs in the Wetland Delineation Report this wetland is not separated from Dautch any natural or man-made berms. |

**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   |
| Ditch 1  | 482<br>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). | Based upon information in the delineation report this ditch originates in southwest corner of the property and flows east into a culvert. The delineation report indicates the, “culvert likely leads into a historic culvert which appears to outlet into Dautch Ditch.” The ditch appears as a linear feature in the 1969 aerial and does not appear to be a relocated channel. Based upon the NWPR Ditch 1 is not a water of the US as there is no indication that it was constructed in a natural tributary or within an existing wetland |
| Ditch 2  | 137<br>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). | Based upon information in the delineation report this ditch is situated in the northeast corner of the study area and reportedly originates near the western limits of Wetland W-07-025. This ditch drains approximately 137 feet to the west and flows into Dautch Ditch. Even though it appears Ditch 2 was constructed to drain Wetland W-07-025 the ditch was not constructed within the wetland. Neither Ditch 2 nor W-07-025 are located within the 100 year floodplain of an A1 or A2 water.   |

<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.



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|          |       |       |                             |   |
|----------|-------|-------|-----------------------------|---|
| W-07-002 | 1.36  | acres | (b)(1) Non-adjacent wetland | W-07-002 is located along the west side of the site and is not located near nor does it have a connection to an a(1-3) water. W-07-002 is located approximately 425 feet west of Dautch Ditch. W-07-002 is not located within the 100 year floodplain of an A1 or A2 water.   |
| W-07-022 | 0.651 | acres | (b)(1) Non-adjacent wetland | W-07-022 is located in the northwest corner of the site and is not located near nor does it have a connection to an a(1-3) water. W-07-022 is located approximately 750 feet west of Dautch Ditch. W-07-022 is not located within the 100 year floodplain of an A1 or A2 water.   |
| W-07-023 | 0.94  | acres | (b)(1) Non-adjacent wetland | W-07-023 is located in the northern portion of the site and is not located near nor does it have a connection to an a(1-3) water. W-07-023 is located approximately 240 feet west of Dautch Ditch. W-07-023 is not located within the 100 year floodplain of an A1 or A2 water.   |
| W-07-025 | 0.651 | acres | (b)(1) Non-adjacent wetland | W-07-024 is located in the northeast portion of the site and abuts Ditch 2 and intermittent b(5) water but does not have a jurisdictional connection to an a(1-3) water. W-07-025 is located approximately 137 feet east of Dautch Ditch. W-07-025 is not located within the 100 year floodplain of an A1 or A2 water.    |
| W-07-026 | 0.063 | acres | (b)(1) Non-adjacent wetland | W-07-026 is located in near the center of the site and is not located near nor does it have a connection to an a(1-3) water. W-07-026 is located approximately 210 feet west of Dautch Ditch. W-07-026 is not located within the 100 year floodplain of an A1 or A2 water.  |
| W-07-027 | 0.037 | acres | (b)(1) Non-adjacent wetland | W-07-027 is located along the west side of Pond 1 and is not located near nor does it have a connection to an a(1-3) water. W-07-027 is located approximately 300 feet southwest of Dautch Ditch and approximately 40 feet north of Ditch 1. W-07-027 is not located within the 100 year floodplain of an A1 or A2 water. |
| W-07-028 | 0.19  | acres | (b)(1) Non-adjacent wetland | W-07-028 is located along the east side of Pond 1 and is not located near nor does it have a connection to an a(1-3) water. W-07-028 is located approximately 130 feet south of Dautch Ditch. W-07-028 is not located within the 100 year floodplain of an A1 or A2 water.  |
| W-07-029 | 0.021 | acres | (b)(1) Non-adjacent wetland | W-07-029 is located near the southern limits of the property between Pond 1 and Ditch 2 and is not located near nor does it have a connection to an a(1-3) water. W-07-029 is not located within the 100 year floodplain of an A1 or A2 water.  |



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|            |       |       |   |   |
|------------|-------|-------|---|---|
| W-07-30    | 0.224 | acres | (b)(1) Non-adjacent wetland   | W-07-030 is located along the east side of the site and is in not located near nor does it have a connection to an a(1-3) water. W-07-030 is located approximately 430 feet east of Dautch Ditch. W-07-030 is not located within the 100 year floodplain of an A1 or A2 water         |
| W-07-31    | 0.022 | acres | (b)(1) Non-adjacent wetland   | W-07-031 is located along the east side of the site and is in not located near nor does it have a connection to an a(1-3) water. W-07-031 is located approximately 560 feet west of Dautch Ditch. W-07-031 is not located within the 100 year floodplain of an A1 or A2 water         |
| W-07-32    | 1.03  | acres | (b)(1) Non-adjacent wetland   | W-07-032is located in the southwest corner of the site and is in not located near nor does it have a connection to an a(1-3) water. W-07-032 is located approximately 780 feet southwest of Dautch Ditch. W-07-032 is not located within the 100 year floodplain of an A1 or A2 water |
| Pond 07-01 | 0.671 | acre  | (b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6). | Based upon a review of aerials from historicalaerials.com the pond does not appear in the 1969 or 1995 aerials but is apparent in the 2004 aerial. The pond is reported be excavated and is not connected to an A1 or A2 water.   |

**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 Delineation Report 16 October 2019](#)

This information is sufficient for purposes of this AJD.

Rationale: [Informatin is sufficient](#)

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

Photographs: [Aerial and Other: Google Earth – 1994, 2000, 2003-2006, 2009-2011 and 2014-2016; Histoirical Aerials 1963, 1965, 1993, 2004, 2006, 2009, 2011, 2013 2015, and 2017 and Site Photos provided by applicant 19 September 2019, EagleView – April 22, 2019](#)

Corps site visit(s) conducted on: [20 November 2019](#)

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: [NRCS Websoil Survey](#)

USFWS NWI maps: [USFWS Sandusky, Ohio – 5 October 2019](#)



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USGS topographic maps: [Sandusky Ohio 1904 - 1:62500](#), [Sandusky Ohio 1959 and 1968 1:24,000](#)

**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>               | N/A.  |
| <a href="#">USDA Sources</a>               | N/A.  |
| <a href="#">NOAA Sources</a>               | N/A.  |
| <a href="#">USACE Sources</a>              | N/A.  |
| <a href="#">State/Local/Tribal Sources</a> | N/A.  |
| <a href="#">Other Sources</a>              | N/A.  |

**B. Typical year assessment(s):** The Antecedent Precipitation Tool determined on the dates of the consultants completed the delineation (July 30 1nd 31, 2019) and the April 22, 2019 the date of the EagleView aerial that precipitation was 1.173228 and considered dry as it was below the 30 percentile of 2.62874 for July 30 and 2.644488 for July 31, 2019. The model also indicates that 30 days prior on June 30 and July 1 that precipitation was 6.287402 and 5.677166, respectively which exceeds the 70 percentile of 4.720079 for June 30 and 4.698819 for July 1, which is considered wetter than normal preceptaiton. Sixty days prior the tool estimated precipitation was normal on April 31 and May 1. The observed precipitation was 2.976378 for May 30 and 3.444882 on June 1 which was also within the normal range between the 30% and the 70% for both dates. Therefore, two months prior to the delineation being completed rainfall was considered to be normal for that time of year, 30 days prior it was considered normal and the dates of the consultants site visit precipitation was considered to be drier. Overall the Antecedent Tool for July 30 and 31, 2019 reports of normal conditions.

The Antecedent Precipitation Tool indicates that on April 22, 2019, the date of the EagleView Aerial Photograph that precipitation was observed at a rate of 3.779528 which exceeds the 70 percentile of 3.76811. Thirty days prior on March 23, precipitation rate was considered to be dry as the observed rate of 1.291339 was below the 30 percentile of 1.374803. Sixty days prior the tool reports conditions were wet as the observed rate of 3.279528 exceeded the 70 percentile of 1.877953. Overall the Antecedent Tool for April 22, 2019 reports of normal conditions.

**C. Additional comments to support AJD:** USGS Topo maps from 1904, 1959 and 1968 were reviewed at the USGS TopoView website (<https://ngmdb.usgs.gov/topoview/viewer/#4/40.01/-100.06.com>) which depict Dautch Ditch in the same approximate location as it currently exists. Aerials were reviewed from Historical Aerials ([historicalaerial.com](http://historicalaerial.com)) from 1963, 1965, 1993, 2004, 2006, 2009, 2011, 2013, 2015, and 2017 and Google Earth from 1994, 2000, 2003-2006, 2009-2011 and 2014-2016 and EagleView Pictometry (<https://explorer.pictometry.com>) from April 22, 2019.

Wetlands w-07-02, W-07-22, W-07-23, W-07-25 and W-07-22-30 are visible on aerials from 2004, 2006, 2009, 2011, 2012, and 2015 aerials. All waters are visible on the EagleView 2019 aerial. All photographs depict Dautch in the same approximate location.

Pond 07-01 first appears in the 2004 aerials.