



**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): 11/6/2020  
 ORM Number: LRB-2020-00841  
 Associated JDs: LRB-2013-00950  
 Review Area Location<sup>1</sup>: State/Territory: Ohio City: Avon Lake County/Parish/Borough: Lorain  
 Center Coordinates of Review Area: Latitude 41.48620 Longitude -81.02973

**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
Ditch 1	56	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
			During the October 6, 2020 site visit water was not observed flowing within Ditch 1 even though the site visit was conducted during a period of above normal precipitation (see Typical Year Assessment below). Civil & Environmental Consultants conducted the water resource delineation on June 8, 2020 which was also during a period of above normal precipitation. Similarly, water was not observed flowing within the channel. These observations coupled with the precipitation data alone could lead to the conclusion that this feature does not have

<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
			intermittent flow. However, this is not dispositive and upon further analysis it has been determined that Ditch 1 is an intermittent a(2) tributary. The two site visit were conducted approximately 4 months apart during the growing season, when evapotranspiration and water uptake from vegetation is at its highest throughout the year. To fully determine Ditch 1's flow regime the site should be visited periodically throughout the year, to include late fall through late spring. Unfortunately, time constraints prevent additional site visits. Thus, the Corps is required to use the best available data to make a jurisdictional determination. In this case, the Corps has utilized ConnectExplorer aerial imagery to determine Ditch 1's flow during the times of year absent field visits. Based on an evaluation of aerial imagery dated 11/25/2013; 4/7/2018; 12/1/2017; and 11/17/2019 Ditch 1 had water within the channel. This indicates that from a period of late fall through spring over the course of multiple seasons water is present. This leads to the conclusion that Ditch 1 does flow seasonally and can be classified as intermittent. Now, the question is whether the Ditch is manmade or a man-manipulated natural stream channel. Based on the following it has been determined to be a man-manipulated stream. First, Ditch 1 is identified as intermittent on the historic Soil Survey map for Lorain County. This indicates this feature has been present for a prolonged period of time. Secondly, the jurisdictional determination on the immediate eastern adjacent parcel identified Ditch 1 as an intermittent stream. Thirdly, it is located within a hydric soil series which indicates that the area has been historically wet providing further evidence of natural flow. Finally, the width of the feature provides additional evidence that Ditch 1 was not manmade but rather man-manipulated. Therefore, based on the discussion above, it has been determined that Ditch 1 is an intermittent a(2) tributary.

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.



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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
Stormwater Basin 1	0.19	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.	This stormwater feature was constructed in uplands for the express purpose of treating and conveying stormwater from an adjacent building to the south. During the October 6, 2020 site visit no stream channels were observed connecting to / through Stormwater basin 1. Furthermore, the Avon, OH USGS 7.5 min Quad and historic Soil Survey of Lorain County do not show a stream channel at this location. Also, historic aerial imagery does not identify this resource until the adjacent building to the south was constructed. Therefore, this feature is a b(10) stormwater exclusion.

**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: [Preliminary Jurisdictional Waters Determination Report, Avon Lake Property, Avon Lake, Lorain County, Ohio, prepared for Redwood Acquisitions, LLC, prepared by Civil & Environmental Consultants, Inc, June 26, 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: Connect Explorer \(11/25/2013; 4/7/2018; 12/1/2017; and 11/17/2019\)](#)
- Corps site visit(s) conducted on: [October 6, 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: [Lorain County](#)
- USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).
- USGS topographic maps: [Avon, 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>

<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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Data Source (select)	Name and/or date and other relevant information
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 weather station – Cleveland. The APT shows that normal precipitation at the location of the site is between the 30th (2.1") and 70th (4.7") percentiles. The APT indicates that 0-30, 60-90, and 60-90 days prior to the visit precipitation was 6.4, 5.1, and 6.0", respectively, which are all above the 70th percentile. Therefore, one to three months prior to the site visit precipitation was considered to be above normal for that time of year.

The APT, using a weighted approach, indicates that the site visit was conducted during a period of wetter than normal precipitation.

**C. Additional comments to support AJD:** Ditch 1 flows west for approximately 0.25 miles into Powdermaker Ditch, an a(2) perennial tributary, which flows northwest approximately 2.1 miles until flowing into Lake Erie, an a(1) navigable water