



**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): 12/14/2020

ORM Number: LRB 2000-00473

Associated JDs: LRB-2009-01202-PJD.

Review Area Location¹: State/Territory: Ohio City: Sheffield Township County/Parish/Borough: Lorain

Center Coordinates of Review Area: Latitude 41.44072 Longitude -82.09186

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
Stream 1 (onsite portion north of Preservation Blvd)	1338.74	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The controlling factor for this determination is the absence of a culvert under Preservation Blvd. During the Corps October 27, 2017 site visit, water was observed pooled within Stream 1 south of Preservation Blvd. However, north of Preservation Blvd water was absent within the channel and there was no evidence of flow. Upon further inspection, it was determined that a culvert was not installed under Preservation Blvd, thereby, severing Stream 1's connectivity. Based on this observation, it was determined that the portion of Stream 1 north of Preservation Blvd has ephemeral flow. To further support the Corps' October 27, 2017 site observations / conclusions, the Corps requested the applicant submit current photographs of Stream 1. Several photographs of Stream 1, dated September 17, 2020, were submitted by EnviroScience. These photographs confirm the Corps' October 27, 2017 site observations. The photographs depict a dry stream channel with no evidence of recent flow. The Antecedent Precipitation Tool (APT) (See Section III.B for a detailed discussion) was utilized to determine the climatological conditions on the dates of the Corps' site visit and EnviroScience's submitted photographs. The APT determined that the Corps' site visit was conducted during a period of drier than normal precipitation. However, the 30 days preceding the Corps' visit precipitation was normal (the APT uses a weighted approach going back 90 days from analysis date). Therefore, it is likely that evidence of flow would have been observed had the stream been intermittent. For the 2020 dated photographs, the APT indicates that they were taken during a period of normal precipitation. However, 30 to 60 days prior to the date of the photographs, precipitation was considered wetter than normal. Therefore, the lack of visible hydrology and absence of evidence of flow further supports the conclusion of ephemeral flow. Thus, it was determined

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)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			Stream 1, north of Preservation Blvd flows ephemerally. This approved jurisdictional determination only applies to the onsite, ephemeral portion of Stream 1 located north of Preservation Blvd.

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: [Title\(s\) and date\(s\)](#)
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: [Other: EnviroScience, September 17, 2020](#)
- Corps site visit(s) conducted on: [October 27, 2017](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [LRB-2009-01202-PJD, Dated November 3, 2017](#)
- 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: [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
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 submitted photographs, and whether the site visit / photographs was conducted / were taken under dry, normal or wet conditions. For the Corps' site visit, the APT pulled precipitation data from the nearest weather station – Cleveland, and for the submitted photographs the APT pulled precipitation data from the nearest six weather stations – Elyria Lorain Co AP, Avon 1.6 SW, North Ridgeville 2.4 NW, Sheffield Lake 0.5 E, Elyria 0.4 SE, and Elyria 3 E. The APT shows that normal precipitation at the location of the site is between the 30th \(2.4"\) and 70th \(4.4"\) percentiles. The APT indicates that 0-30 days prior to the visit precipitation was 3.2" which is between the 30th and 70th percentiles. Thirty to 60 days prior the APT indicates that precipitation was 0.9" which is below the 30th percentile and 60 to 90 days prior precipitation was 1.2" which is also below the 30th percentile. Therefore, one month prior to the site visit rainfall was normal, and two to three months prior to the date of the site visit precipitation was considered to be below normal for that time of year.](#)



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The APT indicates that 0-30 days prior to the submitted photographs precipitation was 3.0" which is between the 30th and 70th percentiles. Thirty to 60 days prior the APT indicates that precipitation was 4.5" which is above the 70th percentile and 60 to 90 days prior precipitation was 2.5" which is between the 30th and 70th percentiles. Therefore, one month prior to the date of the submitted photographs rainfall was normal, two months prior to the date of the submitted photographs precipitation was considered to be above normal for that time of year, and three month prior to the date of the submitted photographs rainfall was normal.

The APT, using a weighted approach, indicates that the site visit was conducted during a period of drier than normal precipitation and the submitted photographs were taken during a period of normal precipitation.

C. Additional comments to support AJD: N/A.