



**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): 1/27/2021
 ORM Number: LRB-2016-01187
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Ohio City: Avon County/Parish/Borough: Lorain
 Center Coordinates of Review Area: Latitude 41.44894 Longitude -81.97666

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
Wetland A Wetland B Wetland C Wetland D Wetland E	0.054 0.077 0.303 0.078 0.486	acre(s)	(b)(1) Non-adjacent wetland.	Wetlands A, B, C, D and E meet the definition of wetland. On-site observations indicate that these wetlands are non-adjacent (b)(1) waters. These wetlands 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. The perimeter of each wetland was walked during the site visits conducted on 7/29/2020 and 10/27/2020. The nearest (a)(1-3) water is Heider Ditch located approximately 0.21-miles to the west of the delineation area. No defined channels/tributaries/ditches were observed flowing from these wetlands to an (a)(1-3) water. None of the wetlands directly abut an (a)(1-3) water. Based on observations the nearest (a)(1-3) waters would not inundate any of the wetlands identified in the delineation area at least once during a typical year. There are no natural or artificial berms located between wetlands and an (a)(1-3) water in the delineation area. Based upon observations made during the two on-site visits, it has been determined that Wetlands A, B, C, D and E are (b)(1) Non-adjacent wetland.
Stream 1	253	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 1 originates on the west side of the delineation area and appears to flow south into a four-inch field tile. The stream is about one to two feet wide. Stream 1 has a defined bed and bank, an ordinary high-water mark and sediment sorting. A review of USGS topographic mapping does not depict a stream channel where Stream 1 was identified in the delineation area. Pictures submitted with the wetland delineation report (9/20/2019) show no water in the stream channel. Water was not observed flowing in the stream channel on either of the on-site visit dates (7/29/2020 and 10/27/2020). A review of weather.com for July 2020 and October 2020 shows that 0.67-inches of rain fell on 07/27/2020 and 0.61-inches of rain fell on 10/19/2020. A review of aerial imagery from the Lorain County,

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
				Ohio GIS website (https://www.loraincountyauditor.com/gis/) for Spring 2020, Spring 2017 and Spring 2015 indicate no water flow in this stream channel. A typical year’s assessment was performed, and an Antecedent Precipitation Condition (APC) calculation was completed for the dates noted above. The dates of the on-site visits were conducted in both the wet and dry season during normal and wetter than normal precipitation conditions. The remainder of the dates assessed fell with the wet season during normal, wetter than normal and drier than normal precipitation conditions. Because most of the dates fell within the wet season with normal or near normal precipitation conditions, the lack of water flow indicates that the stream flow observed on the dates of the site visits would be representative for Stream 1. Based upon a review of information noted above, it has been determined that Stream 1 is a (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.

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, Schwartz Road, Approximately 24.45-acres, Avon, Lorain County, Ohio, Sept. 30, 2019. Revised Nov. 04, 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: Lorain County GIS Spring 2020, 2017, 2015, Google Earth Pro and ConnectExplore – Multiple dates.](#)

Corps site visit(s) conducted on: [29-JUL-2020 and 27-OCT-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: [USACE ORM2 Dataset – accessed 21-DEC-2020](#)

USGS topographic maps: [USACE ORM2 Dataset – accessed 21-DEC-2020](#)

Other data sources used to aid in this determination:



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Data Source (select)	Name and/or date and other relevant information
USGS Sources	USACE ORM2 Dataset
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	USACE ORM2 Dataset
State/Local/Tribal Sources	N/A.
Other Sources	Lorain County GIS , weather.com , Google Earth Pro , ConnectExplore

B. Typical year assessment(s): The APT pulls precipitation data from NOAA's Daily Global Historical Climatology Network. The APT evaluates normal precipitation conditions based on the three 30-day periods preceding the observation date. For each period, a weighted condition value is assigned by determining whether the 30-day precipitation total falls within, above, or below the 70th and 30th percentiles for totals from the same date range over the preceding 30 years. The APT then makes a determination of "normal," "wetter than normal," or "drier than normal" based on the condition value sum. The APT also displays results generated via the Palmer Drought Severity Index and the University of Delaware WebWIMP.

An APT evaluation was run associated with Lorain County GIS aerial images for 5/1/2020, 5/1/2017 and 5/1/2015 and Connect Explore aerial images 7/29/2020 and 10/27/2020. The APT was run for Cleveland. The Antecedent Precipitation Condition (APT) for 7/29/2020 was that the date was in the dry season, had normal precipitation conditions and was experiencing a mild drought. The APT condition for 10/27/2020 was that the date was in the wet season, had wetter than normal precipitation conditions and was experiencing mild wetness. The APT condition for 5/1/2020 was that the date was in the wet season, had normal precipitation conditions and had normal precipitation conditions. The APT condition for 5/1/2017 was that the date was in the wet season, had wetter than normal conditions and was experiencing mild wetness. The APT condition for 5/1/2015 was that the date was in the wet season, had drier than normal precipitation conditions and was experiencing incipient wetness.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Cond
41.44894	-81.97666	7/29/2020	-1.39	Mild drought	Dry Season	14	Normal Conditions
41.44894	-81.97666	10/27/2020	1.3	Mild wetness	Wet Season	15	Wetter than Normal
41.44894	-81.97666	5/1/2020	2.17	Moderate wetness	Wet Season	14	Normal Conditions
41.44894	-81.97666	5/1/2017	1.09	Mild wetness	Wet Season	16	Wetter than Normal
41.44894	-81.97666	5/1/2015	0.7	Incipient wetness	Wet Season	6	Drier than Normal

C. Additional comments to support AJD: [A Typical Year's Assessment was run to coincide with multiple aerial images obtained from Lorain County GIS webmapping application and ConnectExplore aerial images from 2020 to 2015. After a review of the Antecedent Precipitation condition in relation to aerial images reviewed, the APT supports the finding that Stream 1 has ephemeral flow and is an excluded water feature \(b\)\(3\) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.](#)