



**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): 1/25/2021
 ORM Number: LRB 2020-00463
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Ohio City: Aurora County/Parish/Borough: Portage
 Center Coordinates of Review Area: Latitude 41.277817 Longitude -81.333347

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 A	1548	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
			Stream A contributes flows indirectly to an (a)(1) water by flowing to intermittent Stream B (see below) which flows to the Aurora Branch which flows to the Chagrin River, an (a)(1) and Section 10 water. Water in this stream is apparent on Google Earth leaf off aerial photos under normal conditions on 4/6/2012 and drier than normal conditions on 2/28/2006. On the Corps site visit on 8/27/2020 under drier than normal conditions this stream had small amounts of flowing water or pools of water along most of its length. Even though it was drier

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
				than normal conditions during the Corps site visit, the amount of water present was not enough to call the stream perennial. The consultant called the stream intermittent based on their site visit on 12/17/2019 under normal conditions.
Stream B	340	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream B contributes flow indirectly to an (a)(1) water by flowing to the Aurora Branch which flows to the Chagrin River, an (a)(1) and Section 10 water. Water in this stream is apparent on Google Earth leaf off aerial photos under normal conditions on 4/6/2012 and drier than normal conditions on 2/28/2006. This stream is on USGS maps as a solid blue line (perennial). The consultant called the stream perennial based on their site visit on 12/17/2019 under normal conditions. On the Corps site visit on 8/27/2020 under drier than normal conditions this stream had small amounts of flowing water or pools along most of its length but not enough to call it perennial.
Stream C	574	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream C contributes flows indirectly to an (a)(1) water by flowing off-site to Stream B which flows to the Aurora Branch which flows to the Chagrin River, an (a)(1) and Section 10 water. Water in this stream is apparent on Google Earth leaf off aerial photos under normal conditions on 4/6/2012 and drier than normal conditions on 2/28/2006. On the Corps site visit on 8/27/2020 under drier than normal conditions this stream had a moist channel, saturation to the surface of the stream bed, and pools on the lower end. Under normal conditions the stream would have pools and flowing water sufficient to call it intermittent. The consultant called the stream intermittent based on their site visit on 12/17/2019 under normal conditions.
N/A.	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.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland B	3.70	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland B abuts Stream A, an a(2) water. Wetland B is physically connected directly to the stream with no separation and no natural or artificial barriers.



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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland C	2.22	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland C abuts Stream B, an a(2) water. Wetland C is physically connected directly to the stream with no separation and no natural or artificial barriers.
Wetland D	0.4	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland D abuts Stream A, an a(2) water. Wetland D is physically connected directly to the stream with no separation and no natural or artificial barriers.
Wetland E	0.14	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland E abuts Stream A, an a(2) water. Wetland E is physically connected directly to the stream with no separation or and natural or artificial barriers.
Wetland F	0.68	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland F abuts Stream C, an a(2) water. Wetland F is physically connected directly to the stream with no separation and no natural or artificial barriers.
Wetland G	0.10	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland G abuts Stream C, an a(2) water. Wetland G is physically connected directly to the stream with no separation and no natural or artificial barriers.
Wetland H	0.62	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland H abuts Stream C, an a(2) water. Wetland H is physically connected directly to the stream with no separation and no natural or artificial barriers.
N/A.	N/A.	N/A.	N/A.	N/A.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland A	2.2	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland A is not adjacent to an a(1)-(3) water nor is it impounded by an a(1)-(3) water in a typical year. Wetland A is separated from Wetland B by an upland man-made dirt/gravel road berm. There were no observed culverts through the road berm that would provide a direct hydrologic surface connection through the road berm in a typical year.</p> <p>Based on the above information, the wetland does not abut an (a)(1) through (a)(3) water, nor is the wetland inundated by flooding by an (a)(1) through (a)(3) water, is not separated from an (a)(1) through (a)(3) water via a natural berm or barrier, and is not separated from an (a)(1)-(a)(3) water via an artificial structure/feature that allows for a direct hydrologic surface connection in a typical year. Therefore Wetland A is a non-adjacent wetland.</p>
		N/A.	N/A.	N/A.

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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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: [Approved Jurisdictional Determination Request Package \(Maser Consulting P.A., 3/19/2020\)](#)
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: Google Earth \(4/6/2012, 2/28/2006, 4/13/2005\), Soil Survey of Portage County \(issued June 1978\), HistoricAerials.com \(1994, 1982, 1952\)](#)
- Corps site visit(s) conducted on: [8/27/2020](#)
- 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: [Approved Jurisdictional Determination Request Package \(Maser Consulting P.A., 3/19/2020\)](#)
- USGS topographic maps: [HistoricAerials.com \(2016, 1984, 1939\)](#)

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 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.

The APT was run for Google Earth Aerial photos for 4/6/2012 and 2/28/2006. In addition, APT's were run for the consultant delineation report data collection date of 12/17/2019 and the Corps site visit date of on 8/27/2020. Antecedent Precipitation results indicate various conditions; three years normal and two years drier than normal. Aerials for all years suggest no inundation to any of the non-jurisdictional wetlands from any (a)(1)-a(3) water. On the Corps site visit, the conditions were drier than normal and well below the 30-70% range. On the consultant site visit, the conditions were normal and within the 30-70% range. The APT's are attached.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	Arc Score	Antecedent Precip Condition	Relates to
41.277817	-81.333347	8/27/2020	1.31	Mild wetness	Dry Season	9	Drier than Normal	Corps visit
41.277817	-81.333347	12/17/2019	2.38	Moderate wetness	Wet Season	13	Normal Conditions	Consultant visit
41.277817	-81.333347	4/6/2012	-1.64	Mild drought	Wet Season	10	Normal Conditions	Google Earth Aerial
41.277817	-81.333347	2/28/2006	-0.29	Normal	Wet Season	8	Drier than Normal	Google Earth Aerial

The Antecedant Precip Condition was normal for the consultant site visit and drier than normal for the Corps site visit. For both site visits some flow and pools was observed in Streams A and B. The drier than normal conditions on the Corps site visit did not elevate either stream to



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perennial but the streams could be considered on the wetter side of intermittent. On the Corps site visit, Stream C had isolated pools and a moist to saturated channel even with the drier conditions. If observed during normal conditions, the stream would have had more pools and flowing water but would still be considered intermittent.

C. Additional comments to support AJD: [The Corp site visit confirmed the conditions and wetland boundaries described in the delineation report and support documents/maps.](#)