



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): 17-FEB-2021  
ORM Number: LRB-2017-01235  
Associated JDs: N/A or ORM numbers and identifiers (e.g. HQS-2020-00001-MSW-MITSITE)  
Review Area Location<sup>1</sup>:  
State/Territory: OH City: County/Parish/Borough: Cuyahoga County  
Center Coordinates of Review Area: Latitude 41.319125 Longitude -81.750068

**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
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

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<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 independent 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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<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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**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
Stream 7 (2017-01235) - NWPR	958.4 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 7 is a stream channel that only exhibits ephemeral flow to the southwest through upland woods before connecting into Stream 6. Observations by the consultant on 8/11/2017 (normal conditions during the dry season) and 11/20/2020 (wetter than normal conditions during the wet season) were made. The consultant did not observe any flowing water or evidence of recent flow. During the 11/20/2020 visit, the channel was full of dry leaves and did not exhibit evidence of recent flows even though a rainfall event occurred within a few days prior to the visit. The Corps conducted a site visit on 8/14/18 during a wetter than normal period during the dry season. No flow or evidence of recent flows was observed at that time even though there was a relatively large precipitation event a few days before the visit. No evidence of flowing water was observed in leaf-off aerials on Connect Explorer 3/29/2016 and 4/4/2019. These were in the wet season under normal conditions with precipitation events occurring in the days preceding the dates of the aerials. An aerial on Connect Explorer dated 4/20/2020, under wetter than normal conditions during the wet season, shows flowing water within the channel. Several precipitation events occurred in the days preceding that date. These items support that flow occurs only in response to direct precipitation events. Therefore, Stream 7 is an excluded (b)(3) ephemeral feature.

**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 performed 8/11/17 and site visit photos taken 11/20/20, revised review area map provided 2/15/2021*

This information is sufficient for purposes of this AJD.

Rationale: *The information provided in the above resources regarding Stream 7 are sufficient to help support the determination.*

Data sheets prepared by the Corps: *Title(s) and/or date(s).*

Photographs: *(NA, aerial, other, aerial and other): Connect Explorer 3/29/2016, 4/4/2019, and 4/20/2020*

Corps Site visit(s) conducted on: *8/14/18*

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- 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: *Title(s) and/or date(s)*.  
 USGS topographic maps: *7.5 Minute Berea Quad*

**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):** 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 (PDSI) and the University of Delaware WebWIMP.

Inputs/Data Sources:

- Weather Stations: Cleveland.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition	Resource
41.31913	-81.7501	8/11/2017	-0.58	Incipient drought	Dry Season	11	Normal Conditions	Agent Site Visit
41.31913	-81.7501	8/14/2018	1.39	Mild wetness	Dry Season	18	Wetter than Normal	Corps Site Visit
41.31913	-81.7501	11/20/2020	1.98	Mild wetness	Wet Season	15	Wetter than Normal	Agent Re-visit

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip	Resource
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							Condition	
41.31913	-81.7501	4/20/2020	2.51	Moderate wetness	Wet Season	14	Normal Conditions	Aerial – Connect Explorer
41.31913	-81.7501	4/4/2019	2.73	Moderate wetness	Wet Season	13	Normal Conditions	Aerial – Connect Explorer
41.31913	-81.7501	3/29/2016	-1.01	Mild drought	Wet Season	16	Wetter than Normal	Aerial – Connect Explorer

Conclusion(s): The APT report data provides consideration of the type of flow conditions that could be expected in this area. The above data generated for the study area for the aerial and oblique imagery, and the consultant site visit date supports the flow determination for the determinations in each water rationale. The initial agent site visit and the Corps site visit were conducted during the dry season when flow within a non-perennial water would not be expected. The agent’s re-visit and aerials were during the wet season when flow would be expected in streams that have more than ephemeral flow. Flow was only observed in the 4/20/2020 which was under wetter than normal conditions during the wet season. The other three observations occurred during the wet season, following precipitation events, and no flow was observed. These observations support the determination that Stream 7 flows ephemeral only following larger, direct precipitation events.

**C. Additional comments to support AJD:** Based on the above documentation and rationale, it has been determined that the review area includes one excluded feature: a (b)(3) excluded ephemeral feature – LRB-2017-01235 Stream 7. All of the above documentation supports this determination.

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