



**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): 2/5/2021

ORM Number: LRB-2019-01580

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Ohio City: Eaton Township County/Parish/Borough: Lorain

Center Coordinates of Review Area: Latitude 41.326733 Longitude -81.995677

**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.          | 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.            | N/A.                               |

| Tributaries ((a)(2) waters): |             |             |  |  |
|------------------------------|-------------|-------------|--|--|
| (a)(2) Name                  | (a)(2) Size |             | (a)(2) Criteria  | Rationale for (a)(2) Determination   |
| Willow Creek                 | 845         | linear feet | (a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year. | Willow Creek was observed to have flow during the site visit on August 26. The Antecedent Precipitation Tool (See Section III B below) indicates that the site visit was conducted during a period of normal precipitation. Additionally, the delineation report completed by Environmental Consulting & Technology, Inc., identified Willow Creek as perennial. |

<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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| 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 K                          | 1.09        | acre(s) | (a)(4) Wetland abuts an (a)(1)-(a)(3) water. | Wetland K was observed to physically abut an a(2) perennial tributary, Willow Creek. |

**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   |
| Wetlands D, E, F, G, I, J, L and N               | 0.67, 0.26, 0.23, 3.45, 0.08, 0.44, 0.59 and 0.21 | acre(s) | (b)(1) Non-adjacent wetland. | Wetlands D, E, F, G, I, J, L and N 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. These wetlands were circumnavigated during the site visit. No defined channels/tributaries/ditches were observed flowing from these wetlands to any (a)(1-3) water. Based on site observations there is no evidence that the nearest a(1-3) water would flood any of the wetland areas at least once during a typical year. Willow Creek was observed to have debris/leaf wracking approximately 5 feet above ordinary high water. All of these wetlands are located more than 5 feet from the ordinary high water elevation of Willow Creek. Also, there are no natural or manmade berms with a connection such as a culvert located between any a(1-3) water and this wetland. |

**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: [Surface Water Delineation Report, Woods at Eaton Subdivision, Eaton Township, Lorain County, Ohio, Woods at Eaton LLC, prepared by ECT, December 16, 2019](#)

This information is sufficient for purposes of this AJD.

Rationale: [The Corps has reviewed the information in the report and has determined it is sufficient.](#)

<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 sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Other: Title\(s\) and/or date\(s\)](#).
- Corps site visit(s) conducted on: [August 26, 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: [Title\(s\) and/or date\(s\)](#).
- USGS topographic maps: [Grafton, 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>               | N/A.  |
| <a href="#">USDA Sources</a>               | N/A.  |
| <a href="#">NOAA Sources</a>               | N/A.  |
| <a href="#">USACE Sources</a>              | N/A.  |
| <a href="#">State/Local/Tribal Sources</a> | N/A.  |
| <a href="#">Other Sources</a>              | 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 of Engineers' August 26, 2020 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 (2.0") and 70th (4.7") percentiles. The APT indicates that 0-30 days prior to the visit precipitation was 2.4" which is between the 30th and 70th percentiles. Thirty to 60 days prior the APT indicates that precipitation was 5.1" which is above the 70th percentile, and 60 to 90 days prior precipitation was 2.8" which is between the 30th and 70th percentiles. Therefore, one and three months prior to the site visit precipitation was normal, and two months prior precipitation was wetter than normal for that time of year.

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

**C. Additional comments to support AJD:** [Willow Creek flows west and eventually enters the Black River, a navigable waterway.](#)