



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): 18-FEB-2021

ORM Number: LRB-2020-01244

Associated JDs: N/A

Review Area Location<sup>1</sup>:

State/Territory: OH City: Grand River County/Parish/Borough: Lake County

Center Coordinates of Review Area: Latitude 41.735182 Longitude -81.276589

**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
Stream 1	374.2 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 1 flows to the east off-site to Pebble Run (aka Tiber Creek) and then flows through a culvert underneath River Street. Stream 1 then is in an open channel for 25 feet and flows back into a culvert that goes to Lake Erie, an (a)(1) water. Stream 1 has a well defined channel and little build-up of wood debris. On the consultant site visit on July 24, 2020, water was flowing and the APT indicated normal conditions and the 30 days prior was wetter than normal. Water was also observed flowing in the stream on the joint site visit on October 6, 2020, when conditions were normal as well but the 30 days prior to the site visit were drier than

<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 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.

<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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			normal. The stream is also visible on current and historical aerial imagery. In view of the presence of flowing water on the 10/6/2020 site visit when the 30 days prior was drier than normal indicates the stream is perennial.
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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

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland A	0.31 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland A directly abuts Stream 1, which is an (a)(2) water and therefore Wetland A is an (a)(4) wetland based on the adjacency criteria set forth in 33CFR328.3(c)(1).

**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
Wetland B	0.19 acres	(b)(1) Non-adjacent wetland	<p>The closest stream is the on-site Stream 1, an (a)(2) water, which is approximately 100 linear feet away from Wetland B. Wetland B is surrounded by uplands and is entirely on-site. The entire perimeter was observed and no connection to any (a)(1)-(a)(3) water was identified nor were there any natural berms or barriers or artificial structure/features separating the wetland from an (a)(1)-(a)(3) water.</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. Therefore, Wetland B is a non-adjacent wetland.</p>
Wetland C	0.03 acres	(b)(1) Non-adjacent wetland	<p>The closest stream is the on-site Stream 1 which is approximately 300 linear feet away from Wetland C. Wetland C is surrounded by uplands and is partially on-site. The entire perimeter was observed and no connection to any (a)(1)-(a)(3) water was identified nor were there any natural berms or barriers or artificial structure/features separating the wetland from an (a)(1)-(a)(3) water.</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</p>

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			a(1)-(a)(3) water via an artificial structure/feature. Therefore, Wetland C is a non-adjacent wetland.
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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: *Wetland Delineation (HZW Environmental Consultants, September 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 (9/7/19, 4/6/12, 2/28/06, 12/31/1999), HistoricAerials.com(1994, 1970, 1952), Soil Survey of Lake County (issued June 1991) (aerial, other, aerial and other) Title(s) and/or date(s):Wetland Delineation (HZW Environmental Consultants, September 2020).*
- Corps Site visit(s) conducted on: *Date(s): October 6, 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): Web Soil Survey (accessed October 1, 2020)*
- USFWS NWI maps: *National Wetlands Inventory (accessed February 4, 2021)*
- USGS topographic maps: *Title(s) and/or date(s): HistoricAerials.com (2016, 2000, 1964) accessed February 4, 2021*

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrography Dataset (accessed February 4, 2021)
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.

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The APT was run for Google Earth Aerial photos and site visits listed below. Antecedent Precipitation results indicate various conditions; five years normal and one year wetter than normal. Aerials for all years suggest no inundation to any of the non-jurisdictional wetlands from any (a)(1)-(a)(3) water.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition	Relates to
41.735182	-81.276589	8/6/2020	1.3	Mild wetness	Dry Season	12	Normal Conditions	Corps Site Visit
41.735182	-81.276589	7/24/2020	1.41	Mild wetness	Dry Season	12	Normal Conditions	Corps Consultant Site Visit
41.735182	-81.276589	9/17/2019	2.93	Moderate wetness	Wet Season	17	Wetter than Normal	Google Earth Aerial
41.735182	-81.276589	4/6/2012	-1.64	Mild drought	Wet Season	13	Normal Conditions	Google Earth Aerial
41.735182	-81.276589	2/28/2006	-0.29	Normal	Wet Season	14	Normal Conditions	Google Earth Aerial
41.735182	-81.276589	12/31/1999	-2.42	Moderate drought	Wet Season	12	Normal Conditions	Google Earth Aerial

- C. Additional comments to support AJD:** N/A or provide additional discussion as appropriate. Based on an analysis of remote tools including, USGS current and historical maps, USFWS NWI maps, Soil Surveys and Aerial Imagery, as well as observations from site visits conducted on July 24, 2020 and October 6, 2020, Stream 1 and Wetland A meet the criteria for waters of the U.S. under the NWPR and are jurisdictional waters of the U.S. In addition, Wetland B and Wetland C do not meet any of the four adjacency criteria set forth in 33CFR328.3(c)(1) and therefore are excluded waters and not jurisdictional waters of the U.S.

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