



**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): 2/9/2021

ORM Number: LRB-2020-01367

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Ohio City: Akron County/Parish/Borough: Summit

Center Coordinates of Review Area: Latitude 41.138314 N Longitude -81.556152W

**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.
- 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
LRB-2020-1367 Stream 2	292.7	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year. This tributary is located at the center of the study area and flows to the southwest directly into Wetland A, which abuts the Cuyahoga River. The submitted report, titled “Wetland Delineation – Former Riverwoods Golf Course, City of Akron, Summit County, Ohio,” dated October 2, 2020 reported the flow regime as perennial. In-office resources, including aerial imagery, USGS topographical maps, USFWS National Wetlands Inventory maps, USGS streamstats, and the APT report for these resources support the flow regime of perennial. Specifically,

<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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Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
			<p>the APT report showed normal conditions for the date of the consultant site visit 11SEP2020 (dry season), and aerial/oblique images dated 25APR2015 (wet season) with mild wetness for the PDSI class, which supports the observations of perennial flow observed on this date. The same conditions were reported for the 6JUL2018 (dry season) aerial, which the channel could be seen though water in the channel could not be seen possibly due to vegetation cover. Drier than normal conditions with moderate wetness were present for both aerial images assessed dated 11MAR2019 (wet season) and 27APR2019 (wet season); water presence in stream 2 was prominent during this time.</p> <p>Based on the above information, it has been determined that this resource meets the definition of an (a)(2) water.</p>

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
LRB-2020-01367 Wetland A	0.11 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	<p>Wetland A is in the center and the southern extent of the study area abutting stream 2 (an (a)(2) water explained above on this form) and the Cuyahoga River (an (a)(1) water). As described in the report submitted titled "Wetland Delineation – Former Riverwoods Golf Course, City of Akron, Summit County, Ohio," dated October 2, 2020, wetland A meets the three criteria defining it as a wetland and it abuts an (a)(1) water (Cuyahoga River is a TNW) and (a)(2) water – Stream 2, as determined above. Therefore, Wetland A has been determined to be an (a)(4) wetland abutting an (a)(1) through (a)(3) water.</p>



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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
LRB-2020-01367 Pond 1	0.46 acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Pond 1 is a constructed, man-made pond associated with a former golf course on the property. The pond appears as long ago as in Google Earth aerial imagery dated September 2001. Pond 1 does not appear to be an impoundment of jurisdictional features. Therefore, Pond 1 is an excluded (b)(8) artificial pond.
LRB-2020-01367 Pond 2	0.29 acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Pond 2 is a constructed, man-made pond associated with a former golf course on the property. The pond appears as long ago as in Google Earth aerial imagery dated September 2001. Pond 2 does not appear to be an impoundment of jurisdictional features. Therefore, Pond 2 is an excluded (b)(8) artificial pond.
LRB-2020-01367 Pond 3	0.38 acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Pond 3 is a constructed, man-made pond associated with a former golf course on the property. The pond appears as long ago as in Google Earth aerial imagery dated September 2001. Pond 3 does not appear to be an impoundment of jurisdictional features. Therefore, Pond 3 is an excluded (b)(8) artificial pond.
LRB-2020-01367 Pond 4	0.94 acre(s)	(b)(8) Artificial lake/pond constructed or	Pond 4 is a constructed, man-made pond associated with a former golf course on the property. The pond appears as long ago as in

<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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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
			excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Google Earth aerial imagery dated September 2001. Pond 4 does not appear to be an impoundment of jurisdictional features. Therefore, Pond 4 is an excluded (b)(8) artificial pond.
LRB-2020-01367 Pond 5	0.15	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Pond 5 is a constructed, man-made pond associated with a former golf course on the property. The pond appears as long ago as in Google Earth aerial imagery dated September 2001. Pond 5 does not appear to be an impoundment of jurisdictional features. Therefore, Pond 5 is an excluded (b)(8) artificial pond.
LRB-2020-01367 Ditch 1	99	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	This feature functions as a ditch, that was constructed in uplands connecting ponds 1 and 2 ((b)(8) excluded features), as reported by “Wetland Delineation – Former Riverwoods Golf Course, City of Akron, Summit County, Ohio,” dated October 2, 2020. This feature does not meet the definition of an (a)(1), (a)(2), (a)(3), or (a)(4) water. This feature is not a relocated tributary, nor was it constructed in adjacent wetlands [(a)(4) waters]. This information supports that the feature is a (b)(5) excluded ditch.
LRB-2020-01367 Stream 1	132.2	linear feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 1 is a stream channel with bed and banks that exhibits intermittent flow to the west then north through upland woods into pond 3, an excluded (b)(8) artificial pond that does not contribute flow downstream to an (a)(1), (a)(2), or (a)(3) water. This feature does not meet the definition of an (a)(1), (a)(2), (a)(3), or (a)(4) water. Therefore, stream 3 is an excluded (b)(1) surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
LRB-2020-01367 Stream 2 (upstream extent)	86.9 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	This upper stretch of stream 2 is a small defined channel that flows through forested upland within the study area. The submitted report, titled “Wetland Delineation – Former Riverwoods Golf Course, City of Akron, Summit County, Ohio,” dated October 2, 2020 states this portion of the channel has ephemeral flow. At the time of the site visit for the delineation report, September 11, 2020 there was no flow or water in this portion of the channel as shown in the photographs provided that is further supported by the APT report showing normal conditions on this date. Further, this portion of the stream channel does not show any saturation or inundation from any aerial or oblique imagery assessed indicating that flow is not regular and further supporting that the channel at this portion has ephemeral flow. The channel exhibits physical traits of no defined banks, silt bottom, intermittent vegetation growth through the channel during the site visit (dry season – September), narrow channel bed, and limited evidence of flow (i.e. no silt marks, no bent vegetation from flow). These physical traits support ephemeral flow regime. Based on the above information, Stream 2 (upstream extent) is an excluded (b)(3) ephemeral feature.
LRB-2020-01367 Stream 3	26 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 3 is a short stream channel that only exhibits ephemeral flow to the northwest through upland woods into stream 2. This feature does not meet the definition of an (a)(1), (a)(2), (a)(3), or (a)(4) water. Ephemeral flow is apparent by the physical characteristics of the channel, including narrow channel bed (<1 foot), silt and gravel bottom, no defined banks, some green vegetation shown in channel with some evidence of siltation on the leaves, but not bent vegetation. These items support that flow occurs only during precipitation events, ephemerally. Therefore, stream 3 is an excluded (b)(3) ephemeral feature.
LRB-2020-01367 Wetland B - C (0.05 acre)	0.34 acre	(b)(1) Non-adjacent wetland.	Wetland B does not meet the definition of an (a)(1), (a)(2), (a)(3), or (a)(4) water. Wetland B does meet the definition of a wetland, and does not abut an (a)(1)-(a)(3) water, is not separated from an (a)(1)-(a)(3) water by a natural berm or barrier, and is not separated from another water by a man made feature that has an engineered



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
			<p>mechanism for water exchange (inundation or flooding from typical storm events) in a typical year, and it is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year. The nearest (a)(2) tributary is the Cuyahoga River located to the 250 linear feet west of these wetlands. Specifically, through the review of the submitted report, titled “Wetland Delineation – Former Riverwoods Golf Course, City of Akron, Summit County, Ohio,” dated October 2, 2020 indicate that the wetland boundaries each extend outside the project area but are reported to be completely surrounded by uplands with no surface water connections observed. Based on the above information, it has been determined that Wetland B is an excluded (b)(1) non-adjacent wetland.</p>
LRB-2020-01367 Wetland C	0.05	acre	<p>(b)(1) Non-adjacent wetland.</p> <p>Wetland C does not meet the definition of an (a)(1), (a)(2), (a)(3), or (a)(4) water. Wetland C does meet the definition of a wetland, and does not abut an (a)(1)-(a)(3) water, is not separated from an (a)(1)-(a)(3) water by a natural berm or barrier, and is not separated from another water by a man made feature that has an engineered mechanism for water exchange (inundation or flooding from typical storm events) in a typical year, and it is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year. The nearest (a)(2) tributary is the Cuyahoga River located to the 250 linear feet west of these wetlands. Specifically, through the review of the submitted report, titled “Wetland Delineation – Former Riverwoods Golf Course, City of Akron, Summit County, Ohio,” dated October 2, 2020 indicate that the wetland boundaries each extend outside the project area but are reported to be completely surrounded by uplands with no surface water connections observed. Based on the above information, it has been determined that Wetland C is an excluded (b)(1) non-adjacent wetland.</p>

**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 – Former Riverwoods Golf Course, City of Akron, Summit County, Ohio,” dated October 2, 2020 submitted by HzW



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Environmental Consultants, LLC on behalf of Petros Development Corporation; consultant performed field work on 11SEP2020.

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: Google Earth Aerial Imagery, dated 11MAR2019, 17SEP2019. Connect Explorer (<https://explorer.pictometry.com/index.php>), dated 25APR2015, 6JUL2018, 24APR2019. Photographs submitted by consultant dated 11SEP2020.
- Corps site visit(s) conducted on: Date(s).
- Previous Jurisdictional Determinations (AJDs or PJDs): N/A
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx> – accessed on 21JAN2021.
- USFWS NWI maps: <https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/> - accessed 21JAN2021
- USGS topographic maps: <https://livingatlas.arcgis.com/topoexplorer/index.html> – accessed 21JAN2021. Reviewed USGS topographics from 1994 (Quad: OH-Peninsula, scale - 1:24000)

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

Data Source (select)	Name and/or date and other relevant information
USGS Sources	<a href="https://streamstats.usgs.gov/">https://streamstats.usgs.gov/</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: Akron Fulton INTL AP, Cuyahoga Falls 1.1 ESE, Akron, Ravenna 2S, Cleveland.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip	Condition
41.138314	-81.556152	3/11/2019	2.98	Moderate wetness	Wet Season	9		Drier than Normal
41.138314	-81.556152	4/27/2019	2.73	Moderate wetness	Wet Season	9		Drier than Normal
41.138314	-81.556152	4/25/2015	1.81	Mild wetness	Wet Season	11		Normal Conditions
41.138314	-81.556152	7/6/2018	1.66	Mild wetness	Dry Season	10		Normal Conditions
41.138314	-81.556152	9/11/2020	1.49	Mild wetness	Dry Season	12		Normal Conditions



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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.

- C. Additional comments to support AJD:** Based on the above documentation and rationale, it has been determined that the study area includes one jurisdictional (a)(2) tributary– LRB-2020-01367 Stream 2 (292,7 LF) and one jurisdictional (a)(4) adjacent wetland. Further the study area includes several excluded features: two (b)(3) excluded ephemeral features – LRB-2020-01376 Stream 2 upstream extent (86.3 LF) and LRB-2020-01367 Stream 3 (26 LF), two (b)(1) non-adjacent wetlands - LRB-2020-01367 Wetlands B (0.34 acre) and C (0.05 acre), five (b)(8) artificial ponds and one (b)(5) ditch – LRB-2020-01367 Ditch1 (99 LF). All of the above documentation supports this determination