



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): 29-MAR-2021

ORM Number: LRB-2013-01134

Associated JDs: LRB-2013-01134 (PJD, 2/4/14); LRH-2007-00616 (AJD, 2/7/08)

Review Area Location¹:

State/Territory: OH City: Avon County/Parish/Borough: Lorain County

Center Coordinates of Review Area: Latitude 41.462637 Longitude -81.988921

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
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
Wetland A	0.94 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland A extends off-site to the east and directly connects to an intermittent stream, an (a)(2) water. This

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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 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.

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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			<p>water flows north to Porter Creek which goes to Lake Erie, an (a)(1) water. That the wetland extends to the stream is based on review of remote tools including aerial imagery, the on-site observation of wetland hydrology and hydrophytic plants, and the geomorphic position of the area. In addition, the mapped delineation of Wetland A ends abruptly at the eastern border of the project area indicating Wetland A extends off-site. Also a previous AJD (Rapanos) of the site (LRH-2007-00616) shows Wetland A connecting to the intermittent stream (called Ditch 3 in the previous AJD). The off-site stream is indicated on the Soil Survey of Lorain County as an intermittent stream. The stream is also intermittent based on the presence of water adjacent to Wetland A in ConnectExplorer aerials dated 11/25/13, 4/4/15, 4/7/18, 12/14/18, 3/26/19, 4/11/20, and 7/29/20 when the Antecedent Precipitation Tool conditions were normal indicating the stream flows more than in response to storm events.</p>
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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Pond	0.19 acres	(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).	Based on HistoricAerials.com aerial photos, the pond appeared between 1970 and 1982 around the same time as the construction of adjacent Interstate 90. The pond was constructed in an area mapped as Miner soils which are 66-99% hydric but based on available aerial photography (1952, 1962, 1970) there is no conclusive evidence the area was a wetland when the pond was built. Based on the Corps site visit, the pond does not connect to Wetland A. There is no evidence to indicate that this pond is an impoundment of a jurisdictional water. The off-site stream discussed in the "Adjacent wetlands ((a)(4) waters)" section above is 520 feet away from the pond.
Wetland B	0.23 acres	(b)(1) Non-adjacent wetland	The closest stream to Wetland B is the off-site intermittent stream discussed in the "Adjacent wetlands ((a)(4) waters)" section above which is 410 feet away and therefore Wetland B doesn't abut an (a)(1)-(a)(3) water. In addition it isn't inundated by flooding from an (a)(1)-(a)(3) water in a typical year. According to the ConnectExplorer, this wetland is located approximately 1.7 linear feet higher in elevation than the stream. Based on the horizontal and vertical distance from the stream, this wetland will not be flooded by the stream in a typical year. This wetland is surrounded by uplands and is entirely on-site. The entire perimeter was observed and no connections to an (a)(1)-(a)(3) water were observed. It isn't physically separated from an (a)(1)-(a)(3) water by any natural

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			berms or similar natural feature nor is it physically separated from an (a)(1)-(a)(3) water only by barriers or artificial structure/features Therefore, this wetland is non-adjacent.
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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, August 17, 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: ConnectExplorer (11/25/13, 4/4/15, 4/8/17, 4/7/18, 12/14/18, 3/26/19, 4/11/20, 7/29/20), Google Earth (4/6/12, 8/20/20), HistoricAerials.com (1952, 1962, 1970, 1982)
- Corps Site visit(s) conducted on: October 6, 2020
- Previous Jurisdictional Determinations (AJDs or PJDs): LRB-2013-01134 (2/4/14); LRH-2007-00616 (2/7/08)
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Web Soil Survey (<https://websoilsurvey.nrcs.usda.gov/app/>, site accessed 9/29/20).
- USFWS NWI maps: Ohio Reg Viewer LRB (site accessed 3/17/2021).
- USGS topographic maps: <https://ngmdb.usgs.gov/topoview/viewer/#4/40.01/-100.06> (2019, 1963, 1953; site accessed 3/17/2021).

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): N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.

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

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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 APTs were run for Google Earth and Connect Explorer aerial photos listed below. In addition, APTs were run for the consultant site visit and Corps/consultant site visit listed below. Antecedent Precipitation results indicate various conditions; eight years normal, two years wetter than normal, and one year drier than normal. Aerials for all years suggest no inundation to any of the non-jurisdictional wetlands from any a(1)-a(3) water.

Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition	Relates to
4/6/12	3.73	Severe wetness	Wet Season	13	Normal Conditions	Google Earth Aerial
11/25/13	3.88	Severe wetness	Wet Season	13	Normal Conditions	Connect Explorer Aerial
4/4/15	1.1	Mild wetness	Wet Season	6	Drier than Normal	Connect Explorer Aerial
4/8/17	0.26	Normal	Wet Season	16	Wetter than Normal	Connect Explorer Aerial
4/7/18	2.83	Moderate wetness	Wet Season	14	Normal Conditions	Connect Explorer Aerial
12/14/18	3.05	Severe wetness	Wet Season	14	Normal Conditions	Connect Explorer Aerial
3/26/19	3.1	Severe wetness	Wet Season	10	Normal Conditions	Connect Explorer Aerial
4/11/20	1.84	Mild wetness	Wet Season	13	Normal Conditions	Connect Explorer Aerial
7/29/20	-1.41	Mild drought	Dry Season	14	Normal Conditions	Consultant Site Visit
8/20/20	-1.5	Mild drought	Dry Season	12	Normal Conditions	Google Earth Aerial
10/6/20	1.33	Mild wetness	Wet Season	18	Wetter than Normal	Corps/Consultant Site Visit

C. Additional comments to support AJD:

Based on an analysis of remote tools identified above as well as observations from a site visit conducted on October 6, 2020, Wetland A listed above as “Adjacent wetlands ((a)(4) waters)” meets the criteria for waters of the U.S. under the NWPR and is a jurisdictional water of the U.S. In addition, the Pond and Wetland B listed above as “Excluded waters(b)(1)-(b)(12)” do not meet any of the four criteria set forth in 33CFR328.3(a) and therefore are excluded waters and not jurisdictional waters of the U.S.

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