



**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): 3/24/2021

ORM Number: LRB-2015-00197

Associated JDs: N/A.

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

Center Coordinates of Review Area: Latitude 41.442636 Longitude -81.965087

**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.

<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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**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 1	1.53 acre(s)	(b)(1) Non-adjacent wetland.	Wetland 1 does 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. Wetland 1 was circumnavigated by HZW Environmental Consultants during the water resource delineation. No defined channels/tributaries/ditches were observed flowing from Wetland 1 to any (a)(1-3) water. Based on aerial imagery, the Corps has determined that the onsite observations by HZW are accurate. Aerial imagery depicts saturation at the location of the delineated wetlands. Saturation in the aerial imagery was not observed within the adjacent upland areas. Additionally, aerial imagery does not depict evidence of a tributary or other conveyance from Wetland 1. Moreover, there are no identified tributaries/ditches/channels or the like observed in the USGS Quad, soil survey nor National Wetlands Inventory connected to Wetland 1. Wetland 1 is located approximately 1,100 feet north of the nearest a(1-3) water located offsite. Based on a resource review, the nearest a(1-3) water would not flood Wetland 1 at least once during a typical year. Also, there are no natural berms or the like located between the nearest a(1-3) water and Wetland 1.

**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: U.S. Corps of Engineers Section 404 Individual Permit Application and Ohio Environmental Protection Agency Section 401 Water Quality Certification, Phase 8 Country Club Estates, prepared for Bennett Quality Homes, Inc., prepared by HZW Environmental Consultants, February 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).

<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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- Photographs: Aerial: Corps of Engineers, ORM Database, 2020, <https://explorer.pictometry.com/index.php#>, April 26, 2015, March 22, 2016, April 8, 2017, December 14, 2018 and November 12, 2020
- Corps site visit(s) conducted on: Title(s) and/or date(s). April 3, 2015, August 25, 2015 and Spring 2017
- Previous Jurisdictional Determinations (AJDs or PJDs): [Approved JD LRB 2015-00197 April 3, 2015](#)
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Title(s) and/or date(s).
- USFWS NWI maps: [Westlake, Ohio](#)
- USGS topographic maps: [Westlake, OH 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):** 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 Station: Cleveland

Latitude	Longitude	Date	PDSI Class	Season	ARC Score	Antecedent Precip Condition
41.442636	-81.965087	11/12/2020	Mild wetness	Wet Season	14	Normal Conditions
41.442636	-81.965087	12/14/2018	Moderate wetness	Wet Season	14	Normal Conditions
41.442636	-81.965087	4/8/2017	Mild wetness	Wet Season	16	Wetter than Normal
41.442636	-81.965087	3/22/2016	Mild drought	Wet Season	14	Normal Conditions
41.442636	-81.965087	8/25/2015	Incipient drought	Dry Season	15	Wetter than Normal
41.442636	-81.965087	4/26/2015	Mild wetness	Wet Season	7	Drier than Normal
41.442636	-81.965087	4/03/2015	Mild wetness	Wet Season	8	Drier than Normal

The site visits were performed on April 3, 2015, August 25, 2015 and Spring 2018. April 3, 2015 was during wet season under drier than normal conditions and August 25, 2018 was during the dry season under wetter than normal conditions. Observations made during the site visits are consistent of conditions that are observed in aerials from Connect Explorer dated April 26, 2015, March 22, 2016, April 8, 2017, December 14, 2018 and November 12, 2020 and are representative of on site conditions.



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**C. Additional comments to support AJD:** [N/A or provide additional discussion as appropriate.](#)