



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): 28-APR-2021

ORM Number: LRB-2020-01320

Associated JDs: N/A

Review Area Location¹:

State/Territory: OH City: Eaton Township County/Parish/Borough: Lorain County

Center Coordinates of Review Area: Latitude 41.312223 Longitude -82.012222

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
Willow Creek	339 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Willow Creek flows to the East Branch Black River, to the Black River, a Section 10 water on the Buffalo District’s Section 10 list, and an (a)(1) water. Willow Creek was determined to be an (a)(2) jurisdictional stream because it is on the NWI, NHD, and USGS map (solid blue line). Willow Creek is not a man-made ditch. The stream is perennial based on the observation of water in the channel on 14 of 14 Google Earth and ConnectExplorer aerial photos (see Table in Section III.B. for list of aerial photos) and 2 site visits (consultant site visit on 7/24/2020 and joint site visit on 10/7/2020). According to the Antecedent Precipitation

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² 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.

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>Tool, the 16 observations of water in the channel, 9 were during normal conditions, 5 were during wetter than normal conditions, and 2 were during drier than normal conditions. Therefore, Willow Creek is an (a)(2) perennial stream.</p>
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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 C	4.28 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland C directly and physically connects to Willow Creek, a perennial (a)(2) stream, located immediately to the south of the wetland and discussed in Section II.C. (Tributaries ((a)(2) waters)). On the site visit on October 7, 2020, the Corps observed that the wetland extends to, and physically connects to, Willow Creek. Wetland C is directly and physically connected to Willow Creek. In conclusion, Wetland C is an (a)(4) abutting wetland and is therefore jurisdictional.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland A	0.1 acres	(b)(1) Non-adjacent wetland	The closest (a)(2) water to Wetland A is Willow Creek located to the south and discussed in Section II.C. (Tributaries ((a)(2) waters)) above. Wetland A is at an elevation of 799.8 feet while the stream is at an elevation of 787.2 feet, a difference of 12.6 feet. Wetland A is 794.7 linear feet from the stream. Based on the horizontal and vertical distance from the stream, this wetland is not connected to and 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 direct 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 berms or similar natural feature nor is it physically separated from an (a)(1)-(a)(3) water only by artificial structure/features Therefore, this wetland is non-adjacent.
Wetland B	0.1 acres	(b)(1) Non-adjacent wetland	The closest (a)(2) water to Wetland B is Willow Creek located to the south and discussed in Section II.C. (Tributaries ((a)(2) waters)) above. Wetland B is at an elevation of 799.9 feet while the stream is at an elevation of 787.2 feet, a difference of 12.7 feet. Wetland B is 794.7 linear feet from the stream. Based on the horizontal and vertical distance from the stream, this wetland is not connected to and will not be flooded

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			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 direct 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 berms or similar natural feature nor is it physically separated from an (a)(1)-(a)3 water only by 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: Wetlands Investigation (Flickinger Geoservices Group, Ltd., 9/28/2020)
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 (See list of photographs with source and date in Section III.B.)
- Corps Site visit(s) conducted on: October 7, 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: <https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx> (site accessed 10/5/2020)
- USFWS NWI maps: <https://www.fws.gov/wetlands/data/ Mapper-Terms-and-Conditions.html> (site accessed 4/5/21)
- USGS topographic maps: <https://ngmdb.usgs.gov/topoview/viewer/#4/40.00/-100.00> (site accessed on 4/5/21)

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): 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

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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.

The APT was run for Google Earth and ConnectExplorer aerial photos listed below. In addition, an APT was run for the consultant and joint site visits listed below. Antecedent Precipitation results indicate various conditions; nine years normal, two years drier than normal, and five years wetter 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
4/14/2020	1.84	Mild wetness	Wet Season	14	Normal Conditions	ConnectExplorer Aerial
4/7/2018	2.83	Moderate wetness	Wet Season	14	Normal Conditions	ConnectExplorer Aerial
4/9/2017	0.26	Normal	Wet Season	16	Wetter than Normal	ConnectExplorer Aerial
4/29/2015	1.1	Mild wetness	Wet Season	9	Drier than Normal	ConnectExplorer Aerial
11/20/2013	3.88	Severe wetness	Wet Season	12	Normal Conditions	ConnectExplorer Aerial
12/3/2011	7.07	Extreme wetness	Wet Season	18	Wetter than Normal	ConnectExplorer Aerial
4/16/2008	4.54	Extreme wetness	Wet Season	18	Wetter than Normal	ConnectExplorer Aerial
4/10/2006	-1.23	Mild drought	Wet Season	8	Drier than Normal	ConnectExplorer Aerial
7/24/2020	-1.39	Mild drought	Dry Season	11	Normal Conditions	Consultant Site Visit
10/7/2020	1.34	Mild wetness	Wet Season	12	Normal Conditions	Joint Site Visit
8/20/2020	-1.48	Mild drought	Dry Season	12	Normal Conditions	Google Earth Aerial
9/17/2019	2.6	Moderate wetness	Dry Season	11	Normal Conditions	Google Earth Aerial
7/6/2018	1.47	Mild wetness	Dry Season	17	Wetter than Normal	Google Earth Aerial
5/14/2017	1.09	Mild wetness	Wet Season	15	Wetter than Normal	Google Earth Aerial
6/11/2016	-0.72	Incipient drought	Dry Season	10	Normal Conditions	Google Earth Aerial
9/20/2015	2.11	Moderate wetness	Dry Season	14	Normal Conditions	Google Earth Aerial

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 7, 2020, Wetland C listed above as “Adjacent wetlands ((a)(4) waters” and Willow Creek listed above as “Tributaries ((a)(2) waters” meet the criteria for waters of the U.S. under the NWPR and are jurisdictional waters of the U.S. In addition, Wetland A 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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