



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): 30-APR-2021
ORM Number: LRB-2021-00131
Associated JDs: N/A or ORM numbers and identifiers (e.g. HQS-2020-00001-MSW-MITSITE)
Review Area Location¹:
State/Territory: OH City: Richfield County/Parish/Borough: Summit
Center Coordinates of Review Area: Latitude 41.22846 Longitude -81.66107

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
Stream 1	914 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The West Richfield USGS Quad identifies Stream 1 as an intermittent stream. None of the other onsite streams are identified on the USGS Quad. During the April 21, 2021 site visit which was conducted during a period of drier than normal precipitation (See Typical Year Assessment below) water was observed flowing within the stream

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			channel. The width (7-10 feet) of this stream channel compared to the other onsite intermittent tributaries (2-5 feet) is indicative of a higher flow regime. In addition, deeper pools and more pronounced riffle-run-pool complexes were observed compared to the other onsite intermittent tributaries. In addition, during Davey Resource Group's January 5, 2021 delineation visit water was observed flowing in Stream 1. Based on the above, it has been Stream 1 is a perennial tributary.
Stream 7	196 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	During the April 21, 2021 site visit which was conducted during a period of drier than normal precipitation (See Typical Year Assessment below) water was observed flowing within the stream channel. The width (4-6 feet) of this stream channel compared to the other onsite intermittent tributaries (2-5 feet) is indicative of a higher flow regime. In addition, deeper pools and more pronounced riffle-run-pool complexes were observed compared to the other onsite intermittent tributaries. In addition, during Davey Resource Group's January 5, 2021 delineation visit water was observed flowing in Stream7. Based on the above, it has been Stream 7 is a perennial tributary.
Stream 2	158 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This has been determined to be an intermittent a(2) tributary. Water was observed flowing within the stream channel at the time of the Corps' April 21, 2021 site visit. Precipitation was determined to be below normal for that time of year (See Typical Year Assessment below). Moreover, the site visit was conducted when snow was

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			on the ground and temperatures had been and were still below the freezing point. Therefore, runoff was at a minimum. During Davey Resource Group's January 5, 2021 delineation visit water was observed pooled in this stream channel, with little surface flow. This demonstrates less than perennial, but more than ephemeral flow. Based on the above, it was determined that this stream flows intermittently.
Stream 4	399 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Same as above.
Stream 5	458 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Same as above.
Stream 6	604 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Same as above.
Stream 8	60 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Same as above.
Stream 9	179 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Same as above.

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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
Pond 1	0.346 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	During the April 21, 2021 site visit, Pond 1 was observed to be constructed in-line with tributaries 4 and 5. Water was observed flowing in and out of Pond 1. Therefore, it is considered an impoundment of a jurisdictional water.

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

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland A	0.115 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	This wetland was observed to directly abut an a(2) tributary.
Wetland B	0.111 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Same as above.
Wetland D	0.125 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Same as above.
Wetland E	0.254 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Same as above.
Wetland F	0.208 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Same as above.
Wetland H	0.104 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Same as above.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Stream 3	122 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	This stream was observed to be an ephemeral stream channel. This was based on a combination of the following - channel size, lack of flow, watershed size, and absence of groundwater. The channel was approximately 1-2 feet in width, which can be evidence of infrequent flow. There was

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			no observed flow nor were standing pools observed (see Typical Year Assessment below)). Additionally, it was determined that the entire watershed size for this stream is less than 1 acre in size; so, unless groundwater is present there is an insufficient amount of precipitation to make the stream intermittent or perennial. While onsite, Corps staff walked the length of the stream channel looking for evidence of groundwater influence - there were no observed seeps or springs. It was apparent that flow originates from runoff associated with a single-family residence to the south. In addition, vegetation (i.e. skunk cabbage) commonly associated with groundwater influence was not observed at the location of this stream. Therefore, it was determined there is no groundwater influence and hydrology is strictly from precipitation. USGS Quads were reviewed to determine presence/absence of onsite stream channels. The USGS quads do not identify any stream channels onsite corresponding to the location of this stream. Therefore, it was determined that this stream channel is an excluded ephemeral stream.
Wetland C	0.048 acres	(b)(1) Non-adjacent wetland	This wetland 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. This wetland was circumnavigated during the Corps' April 21, 2021 site visit. This wetland was observed to be isolated, disconnected from any (a)(1-3) water. Additionally, no defined

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			channels/tributaries/ditches were observed connecting this wetland to any (a)(1-3) water. Based on site observations, the nearest a(1-3) water would not flood this wetland at least once during a typical year. Upland was observed between this wetland and the nearest tributary. There were no other onsite connections observed to any tributary. Also, no natural berms or the like were observed located between the nearest a(1-3) water and this wetland.
Wetland G	0.249 acres	(b)(1) Non-adjacent wetland	Same as above.

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: *Water Resource Delineation Report, 26 Acres, Southern Road, Richfield, Summit County, Ohio, prepared for Jane F. Swan, prepared by Davey Resource Group, Inc., January 2021.*

This information is sufficient for purposes of this AJD.

Rationale: *N/A or describe rationale for insufficiency (including partial insufficiency).*

Data sheets prepared by the Corps: *Title(s) and/or date(s).*

Photographs: *(NA, aerial, other, aerial and other) Title(s) and/or date(s).*

Corps Site visit(s) conducted on: *April 21, 2021.*

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).*

USFWS NWI maps: *Title(s) and/or date(s).*

USGS topographic maps: *West Richfield, Ohio 7.5 min Quad.*

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.

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- B. Typical year assessment(s):** The subject parcel's latitude/longitude was entered into the Antecedent Precipitation Tool (APT) which was used to determine average precipitation, total precipitation over the 90 days preceding the Corps' April 2021 site visit and whether the site visits were conducted under dry, normal or wet conditions. The APT pulled precipitation data from the nearest five weather stations – Ravenna 2 S, Cuyahoga Falls 0.7 NE, Cuyahoga Falls 1.1 ESE, Akron, and Akron Fulton INTL AP. The APT shows that normal precipitation is between the 30th (2.8") and 70th (5.4") percentiles. The APT indicates that 0-30 days prior to the Corps' site visit precipitation was 1.0" which is below the 30th percentile. Thirty to 60 days prior to the visit the APT indicates that precipitation was 0.9" which is below the 30th percentile, and 60 to 90 days prior precipitation was 0.8" which is also below the 30th percentile. Therefore, one to three months prior to the Corps' site visit precipitation was considered below normal for that time of year.
- C.** The APT, using a weighted approach, indicates that the Corps' site visit was conducted during a period of below normal precipitation.
- D. Additional comments to support AJD:** All onsite tributaries flow into Stream 1 either onsite or off. Stream 1 then flows west into the East Branch of the Rocky River, which flows into the Rocky River, an a(1) navigable waterway.

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