



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): August 20, 2021

ORM Number: LRB-2021-00115

Associated JDs: N/A or ORM numbers and identifiers LRB-2012-00964

Review Area Location¹:

State/Territory: OH City: Strongsville County/Parish/Borough: Cuyahoga

Center Coordinates of Review Area: Latitude 41.27953 Longitude -81.83641

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.

<input type="checkbox"/>	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.
<input type="checkbox"/>	There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
<input type="checkbox"/>	There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
<input checked="" type="checkbox"/>	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

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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
Wetland A	1.729 acres	(b)(1) Non-adjacent wetland	<p>Wetland A is located along the western property boundary and extends off the property to the southwest.</p> <p>Wetland A is not an: (a)(1) Assessment: The wetland is not an (a)(1) traditional navigable water or a water subject to the ebb and flow of the tide. The wetland is not on the Buffalo District Section 10 list, has not been determined by a Federal Court to be navigable under Federal law, and does not meet the legal definition of navigable-in-fact. The wetland has not been used, is not currently being used, and is not susceptible of being used (with or without reasonable improvements), as a highway for commerce over which trade and travel are, or may be conducted in the customary modes of trade and travel on water. The wetland does not support navigation of any sort and is hundreds of miles from the nearest tidal water.</p> <p>(a)(2) Assessment: The wetland is not a naturally occurring surface water channel, or a constructed or excavated channel used to convey water and</p>

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			<p>therefore, is not an (a)(2) water.</p> <p>(a)(3) Assessment: The wetland does not meet the definition of an (a)(3) water as it is not a lake, pond, or impoundment of a jurisdictional water. The wetland is not a standing body of open water. Mapping resources do not indicate that a water of the U.S. previously existed in this location.</p> <p>(a)(4) Assessment: The subject wetland has been determined to not be “adjacent” to a paragraph (a)(1), (2), or (3) water. Each adjacency criteria is assessed below:</p> <ul style="list-style-type: none"> •(i) The wetland does not abut/touch a water identified in paragraph (a)(1), (2), or (3) at any point or any side. The wetland is surrounded by upland on all sides as verified by the Corps in the field during the April 20, 2021 site visit. The nearest potential (a)(1), (2), or (3) water is Stream 2, (See Section IIIC) •(ii) The wetland is not inundated by flooding from a water identified in paragraph (a)(1), (2), or (3) in a typical year. The wetland is located within FEMA Flood Zone X (area of minimal flood hazard, usually depicted on FIRMs as above the 500-year flood level). The wetland is not reported to be located within the 100-year floodplain of an
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 REGULATORY PROGRAM
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			<p>(a)(1) or (a)(2) water. The wetland is reported to be within the Mahoning silt loam, 0 to 2 percent slopes (MgA) which has a hydric rating of ten and a flooding frequency rating reported to be “none” and the Mahoning silt loam, 2 to 6 percent slopes (MgB) which has a hydric rating of five and a flooding frequency rating reported to be “none”.</p> <p>The nearest (a)(2) water is an Unnamed Tributary (UNT) to the West Branch of the Rocky River which is approximately 1,350 feet to the southwest. This unknown tributary is reported to be an unknown perennial stream that is visible on aerial photographs. Wetland A is separated from this tributary by a forested area. A review of the USGS map and aerial photographs do not indicate the presence of any other potential (a)(1), (2), or (3) waters near Wetland A.</p> <ul style="list-style-type: none"> •(iii) The wetland is not physically separated from a water identified in paragraph (a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature. •(iv) The wetland is not physically separated from a water identified in paragraph (a)(1), (2), or (3) only by an artificial dike, barrier, or similar artificial
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			structure. The wetland is not part of a larger wetland divided by a road or similar artificial structure.
Wetland B	0.026 acres	(b)(1) Non-adjacent wetland	<p>Wetland B is located along northern limits of the property and east of Wetland A. Wetland B was circumnavigated during the Corps' April 20, 2021 site visit and it was determined to be an isolated water, disconnected from any (a)(1-3) water. Additionally, no defined channels/tributaries/ditches/artificial structures were observed connecting this wetland to any (a)(1-3) water.</p> <p>Wetland B is not an: (a)(1) Assessment: The wetland is not an (a)(1) traditional navigable water or a water subject to the ebb and flow of the tide. The wetland is not on the Buffalo District Section 10 list, has not been determined by a Federal Court to be navigable under Federal law, and does not meet the legal definition of navigable-in-fact. The wetland has not been used, is not currently being used, and is not susceptible of being used (with or without reasonable improvements), as a highway for commerce over which trade and travel are, or may be conducted in the customary modes of trade and travel on water. The wetland does not support</p>

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			<p>navigation of any sort and is hundreds of miles from the nearest tidal water.</p> <p>(a)(2) Assessment: The wetland is not a naturally occurring surface water channel, or a constructed or excavated channel used to convey water and therefore, is not an (a)(2) water.</p> <p>(a)(3) Assessment: The wetland does not meet the definition of an (a)(3) water as it is not a lake, pond, or impoundment of a jurisdictional water. The wetland is not a standing body of open water. Mapping resources do not indicate that a water of the U.S. previously existed in this location.</p> <p>(a)(4) Assessment: The subject wetland has been determined to not be “adjacent” to a paragraph (a)(1), (2), or (3) water. Each adjacency criteria is assessed below:</p> <ul style="list-style-type: none"> •(i) The wetland does not abut/touch a water identified in paragraph (a)(1), (2), or (3) at any point or any side. The wetland is surrounded by upland on all sides as verified by the Corps in the field during the April 20, 2021 site visit. The nearest potential (a)(1), (2), or (3) water is Stream 2, (See Section IIIC) •(ii) The wetland is not inundated by flooding from a water identified in
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 APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
 NAVIGABLE WATERS PROTECTION RULE

			<p>paragraph (a)(1), (2), or (3) in a typical year. The wetland is located within FEMA Flood Zone X (area of minimal flood hazard, usually depicted on FIRMs as above the 500-year flood level). The wetland is not reported to be located within the 100-year floodplain of an (a)(1) or (a)(2) water. The wetland is reported to be within the MgA map unit which has a hydric rating of ten and a flooding frequency rating reported to be “none”.</p> <p>The nearest (a)(2) water to Wetland B is reported to be an UNT to Bakers Creek located approximately 1,100 feet to the northeast. Wetland B is separated from this tributary by residential areas, a four-lane road, and a commercial property. A review of the USGS map and aerial photographs do not indicate the presence of any other potential (a)(1), (2), or (3) waters near Wetland B.</p> <ul style="list-style-type: none"> •(iii) The wetland is not physically separated from a water identified in paragraph (a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature. •(iv) The wetland is not physically separated from a water identified in paragraph (a)(1), (2), or (3) only by an artificial dike, barrier, or similar artificial
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REGULATORY PROGRAM
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			structure. The wetland is not part of a larger wetland divided by a road or similar artificial structure.
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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: *Surface Water Delineation Report, 19156 Pearl Road, Strongsville, Cuyahoga County, Ohio, prepared for Encompass Health, prepared by The Mannik & Smith Group, Inc., January 2021*
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: *Connect Explorer Aerials – 2011 APR 10, 2013 DEC 4, 2014 NOV 10, 2015 APR 24, 2016 Mar 29, 2020 APR 20 and NOV 12 and 2021 MAR 13. Consultant onsite photographs, no date but appear to have been taken during the wetland delineation on 2020 Nov 10*
- Corps Site visit(s) conducted on: *April 20, 2021*
- Previous Jurisdictional Determinations (AJDs or PJDs): *2012-00964, February 19, 2014*
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey:
- USFWS NWI maps: *Title(s) and/or date(s)*.
- USGS topographic maps: *Title(s) and/or date(s)*.

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 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’ site visit, the consultants date of delineation and leaf off aerials from Connect Explorer to whether the site visits and aerials represent conditions of dry, normal or wet conditions. The APT pulled precipitation data from the Cleveland weather station.

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The APT determined the Corps site visit and aerial dated 31 MAR 2021 represent drier than normal conditions during the wet season with the observed rain fall less than the 30th percentile. Thirty to 60 days prior to the visit the APT indicates that precipitation was 1.1" which is below the 30th percentile, and 60 to 90 days prior precipitation was 2.0" which is also below the 30th percentile. Therefore, one month prior to the site visit precipitation was normal and two to three months prior to the site visit precipitation was considered below normal for that time of year. The APT also indicates that the consultant's delineation and photographs from 2020 NOV 12, 10 and APR 20 and 2019 MAR 27 represent moderate to mild wetness under normal conditions during the wet season. The 2016 MAR 29 represent wetter than normal conditions during a mild drought in the wet season. The remaining aerials were taken during the wet season during mild to severe wetness under normal conditions.

There is no indication in the observed aerials representing the current site conditions following the construction of the residential development to the west, circa 2013 and 2014 that water from Wetlands A or B flow to the UNT to the West Branch of the Rocky River nor the UNT to Bakers Creek.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition
41.27953	-81.83641	4/20/2021	-1.89	Mild drought	Wet Season	6	Drier than Normal
41.27953	-81.83641	3/31/2021	-1.76	Mild drought	Wet Season	6	Drier than Normal
41.27953	-81.83641	11/12/2020	1.97	Mild wetness	Wet Season	14	Normal Conditions
41.27953	-81.83641	11/10/2020	1.97	Mild wetness	Wet Season	14	Normal Conditions
41.27953	-81.83641	4/20/2020	2.51	Moderate wetness	Wet Season	14	Normal Conditions
41.27953	-81.83641	3/27/2019	2.98	Moderate wetness	Wet Season	10	Normal Conditions
41.27953	-81.83641	3/29/2016	-1.01	Mild drought	Wet Season	16	Wetter than Normal
41.27953	-81.83641	4/24/2015	1.81	Mild wetness	Wet Season	10	Normal Conditions
41.27953	-81.83641	11/10/2014	4.07	Extreme wetness	Wet Season	11	Normal Conditions

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41.27953	-81.83641	12/4/2013	3.96	Severe wetness	Wet Season	10	Normal Conditions
41.27953	-81.83641	4/10/2011	3.56	Severe wetness	Wet Season	14	Normal Conditions

C. Additional comments to support AJD: There is no indication that Wetland A or B drains into the nearby UNTs to the West Branch of the Rocky River. A culvert is located to the north of Wetland A but the only connection to this culvert would be via sheet flow. In addition, any surface flow connection to the west was severed by the filling that occurred under NWP LRB 2012-00964 which verified the placement of fill on the parcel to the west in Wetlands, A, Wetland C and ephemeral Stream 2.

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