



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): 26-AUG-2021

ORM Number: LRB-2021-00389

Associated JDs: N/A

Review Area Location<sup>1</sup>:

State/Territory: OH City: County/Parish/Borough: Huron County

Center Coordinates of Review Area: Latitude 41.2486 Longitude -82.6028

**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

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<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 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.

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<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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**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
Ditch 1	92 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch 1 is a man-made channelized ditch at the toe of slope between a former railbed and Akron Road that contains an OHWM. There was no evidenced in the reviewed historical mapping or aerials that indicated this feature is a relocated tributary, that it was constructed within a tributary or a wetland.
Ditch 2	2062.24 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch 2 is a man-made channelized ditch at the toe of slope along the north side of former railbed that contains an OHWM that drains into Wetland 3 from the southeast. There was no evidenced in the reviewed historical mapping or aerials that indicated this feature is a relocated tributary, that it was constructed within a tributary or a wetland.
Ditch 3	1006.4 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch 3 is a man-made channelized ditch at the toe of slope along the south side of former railbed contains an OHWM that drains into Wetland 3 from the southeast. There was no evidenced in the reviewed historical mapping or aerials that indicated this feature is a relocated tributary, that it was constructed within a tributary or a wetland.
Ditch 4	150.12 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch 4 is along the west side of former railbed that forms at the north end of Wetland 3. This ditch has an OHWM that drains west from Wetland 3 than into a culvert that drains northeast into Ditch 5. There was no evidenced in the reviewed historical mapping or aerials that indicated this feature is a relocated tributary, that it was constructed within a tributary or a wetland.
Ditch 5	1557.19 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and	Ditch 5 is along the east side of former railbed that drains northwest from Wetland

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		those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	3. This ditch enters not a culvert that enters the City of Norwalk's storm sewer system via a culvert. There was no evidenced in the reviewed historical mapping or aerials that indicated this feature is a relocated tributary, that it was constructed within a tributary or a wetland.
Ditch 6	135 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch 6 is located along the east side of a former railroad bed, west of Schauss Avenue. This feature contains that contains an OHWM. There was no evidenced in the reviewed historical mapping or aerials that indicated this feature is a relocated tributary, that it was constructed within a tributary or a wetland.
Ditch 7	2652.5 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch 7 is located east of a former railroad bed at the end of culvert that originates on a property to the east. This ditch extends along the railroad bed before entering a culvert south of Gallup Avenue that drains into the City of Norwalk's storm sewer system. Ditch 7 contains an OHWM and there was no evidenced in the reviewed historical mapping or aerials that indicated this feature is a relocated tributary, that it was constructed within a tributary or a wetland.
Ditch 8	1252.08 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch 8 forms south of Williams Avenue and is located west of a former railroad bed. This ditch extends along the railroad bed before entering a culvert south of Gallup Avenue that drains into the City of Norwalk's storm sewer system. Ditch 8 contains an OHWM and there was no evidenced in the reviewed historical mapping or aerials that indicated this feature is a relocated tributary, that it was constructed within a tributary or a wetland.
Wetland 1	0.105 acres	(b)(1) Non-adjacent wetland	Wetland I located west of a former railroad bed east of an electric substation west of Adam Street. There is no evidence of this wetland draining into another water of the

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			<p>US. The wetland is not located within the 100-year floodplain of an (a)(1) or (a)(2) water. The wetland is reported to be within the Colwood silt loam (Cm) with a hydric rating of 99 and flooding frequency rating reported to be “none”.</p> <p>Wetland I 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 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</p>
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			<p>paragraph (a)(1), (2), or (3) water. Each adjacency criteria is assessed below:</p> <ul style="list-style-type: none"> <li>•(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 June 4, 2021 site visit. The nearest potential (a)(1), (2), or (3) water is an Unnamed Tributary to the Huron River located approximately 2, 590 feet to the northeast.</li> <li>•(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).</li> <li>•(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.</li> <li>•(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 structure. The wetland is not part of a larger wetland divided by a road or similar artificial structure.</li> </ul>
Wetland 2	0.159 acres	(b)(1) Non-adjacent wetland	<p>Wetland 2 located west of a former railroad and northwest of Wetland 1. There is no evidence of this wetland draining into another water of the US. The wetland is not located within the 100-year floodplain of an (a)(1) or (a)(2) water. The wetland is reported to be within the Colwood silt loam (Cm) with a hydric rating of 99 and flooding frequency rating reported to be "none".</p> <p>Wetland 2 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</p>

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			<p>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 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:      •(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 June 4, 2021 site visit. The nearest potential (a)(1), (2), or (3) water is an Unnamed Tributary to the Huron River located approximately 3,010 feet to the</p>
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			<p>northeast.</p> <ul style="list-style-type: none"> <li>•(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).</li> <li>•(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.</li> <li>•(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 structure. The wetland is not part of a larger wetland divided by a road or similar artificial structure.</li> </ul>
Wetland 3	0.163 acres	(b)(1) Non-adjacent wetland	<p>Wetland 3 is located in the footprint of a former railroad bed where it crosses below Cleveland Road and East Main Street. There is no evidence of this wetland draining into another water of the US. The wetland is not located within the 100-year floodplain of an (a)(1) or (a)(2) water. The wetland is reported to be within the Spinks loamy fine sand, 2 to 6 percent slopes with a hydric rating of 0 and flooding frequency rating reported to be "none".</p> <p>Wetland 3 is not an:</p> <p>(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</p>

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			<p>dune, or similar natural feature.</p> <p>•(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 structure. The wetland is not part of a larger wetland divided by a road or similar artificial structure.</p>
Wetland 4	0.017 acres	(b)(1) Non-adjacent wetland	<p>Wetland 4 is located southwest of a former railroad bed near the northern corner of a woodlot and east of an existing recreational park. The wetland extends southwest off the subject property. There is no evidence of this wetland draining into another water of the US. The wetland is not located within the 100-year floodplain of an (a)(1) or (a)(2) water. The wetland is reported to be within the Tuscola loamy fine sandy loam, 0 to 2 percent slopes with a hydric rating of 3 and flooding frequency rating reported to be "none".</p> <p>Wetland 4 is not an:</p> <p>(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</p>

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<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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			<p>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"> <li>•(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 June 4, 2021 site visit. The nearest potential (a)(1), (2), or (3) water is Norwalk Creek a tributary to the Huron River located approximately 3,200 feet to the southwest.</li> <li>•(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).</li> <li>•(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.</li> <li>•(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 structure. The wetland is not part of a larger wetland divided by a road or similar artificial structure.</li> </ul>
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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: *HUR-Norwalk Multi-Use Path February 5, 2021*  
This information (*is/is not/is and is not*) 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: *Connect Explorer – 2021 MAR 14, Google Earth – 1997 MAR 26, 2006 Feb 28, and 2015 OCT 25. Site Photos 2021 JUN 4 and 2019 OCT14*
- Corps Site visit(s) conducted on: *2021 JUN 4*
- 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: *Wed Soil Survey 2021 AUG 24*
- USFWS NWI maps: *2021 JUN 4*
- USGS topographic maps: *1 to 62500 – 1904 and 1944 Norwalk and 1915 Sandusky. 1 to 24000 1959 Milan, 1960 Norwalk, 2010 Milan and Norwalk and, 2019 Milan and Norwalk.*

**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 consultants date of delineation and leaf off aerials from Connect Explorer and Connect Explorer to whether the site visits and aerials represent conditions of dry, normal or wet conditions. The APT pulled precipitation data from the Bellevue 0.6 N, Florence 3 SSE, Milan 0.4 ENE, Milan 3.2 ENE, Norwalk 1.2, Norwalk WWTP, Oberlin and Sandusky weather stations.

The APT determined the Corps site visit was conducted during the dry season under wet conditions as perception was observed at 5.622047 inches which exceeds the 70<sup>th</sup> percentile of 4.535827 inches. The APT tool calculated a mild draught index with overall precipitation conditions were normal. The consultant’s delineation on 2019 October 14 was under dry conditions during the wet season under a mild drought. The observed rain fall was reported to be at 0.988189 inches which is below the 30<sup>th</sup> percentile of 1.952362 inches. Thirty days prior to the consultants site visit the APT determined

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conditions were dry with rainfall reported to be 1.137795 inches which is below the 30<sup>th</sup> percentile of 1.6933465 inches. Sixty days prior conditions were normal with precipitation being between the 30<sup>th</sup> and 70<sup>th</sup> percentiles. Overall the APT determined that conditions were drier than normal.

Aerials taken on 2021 MAR 14 reportedly represent dry conditions during the wet season with rainfall below the 30<sup>th</sup> percentile and under a mild drought. Aerials dated 2015 OCT 25 were determined to be drier than normal and on 2015 OCT 25 conditions were determined to be normal. Aerials from 2006 Feb 28 and 1997 MAR 26 represent wetter than normal precipitation conditions during the wet season.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition
41.2481	-82.6034	6/4/2021	-1.2	Mild drought	Dry Season	14	Normal Conditions
41.2481	-82.6034	3/14/2021	-1.24	Mild drought	Wet Season	7	Drier than Normal
41.2481	-82.6034	10/14/2019	2.49	Moderate wetness	Wet Season	9	Drier than Normal
41.2481	-82.6034	10/25/2015	2.04	Moderate wetness	Wet Season	11	Normal Conditions
41.2481	-82.6034	2/28/2006	0.78	Incipient wetness	Wet Season	16	Wetter than Normal
41.2481	-82.6034	3/26/1997	2.86	Moderate wetness	Wet Season	15	Wetter than Normal

**C. Additional comments to support AJD:** Based upon the consultant’s delineation report and a review of in-office resources there is no indication that Wetlands 1, 2, 3 or 4 have a direct hydrological connection to any other waters of the US and are considered excluded waters under the 2020 Navigable Waters Protection Rule. Ditch 1 to 8 are manmade excavated ditches at the toe of slope along an existing railroad bed. There were no observations made that would indicate these ditches were constructed within or are re-routed/captured streams and there also excluded waters per the 2020 Navigation Protection Rule.

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