



**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): 10/2/2020
 ORM Number: LRH-2019-268-TUS-UNT to Tuscarawas River
 Associated JDs: A JD letter (LRH-2011-16) was issued for the site on January 9, 2012 and has since expired. A PJD has been requested for potentially jurisdictional waters (LRH-2019-268).
 Review Area Location¹: State/Territory: OH City: Navarre County/Parish/Borough: Stark
 Center Coordinates of Review Area: Latitude 40.73422 Longitude -81.50441

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
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.

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 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)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland A (PEM)	0.015	acre(s)	(b)(1) Non-adjacent wetland.	Wetland A does not meet the definition of an adjacent wetland [33 CFR 328.3(c)(1)(i)-(iv)], is not considered a water of the United States per 33 CFR 328.3(b)(1), and is not subject to regulation under Section 404. Reference Section III B of this AJD form for typical year assessments.
Wetland B (PEM)	0.09	acre(s)	(b)(1) Non-adjacent wetland.	Wetland B does not meet the definition of an adjacent wetland [33 CFR 328.3(c)(1)(i)-(iv)], is not considered a water of the United States per 33 CFR 328.3(b)(1), and is not subject to regulation under Section 404. Reference Section III B of this AJD form for typical year assessments.
Wetland C (PEM)	0.74	acre(s)	(b)(1) Non-adjacent wetland.	Wetland C does not meet the definition of an adjacent wetland [33 CFR 328.3(c)(1)(i)-(iv)], is not considered a water of the United States per 33 CFR 328.3(b)(1), and is not subject to regulation under Section 404. Reference Section III B of this AJD form for typical year assessments.
Wetland D (PSS)	1.7	acre(s)	(b)(1) Non-adjacent wetland.	Wetland D does not meet the definition of an adjacent wetland [33 CFR 328.3(c)(1)(i)-(iv)], is not considered a water of the United States per 33 CFR 328.3(b)(1), and is not subject to regulation under Section 404. Reference Section III B of this AJD form for typical year assessments.
Wetland E (PEM)	0.11	acre(s)	(b)(1) Non-adjacent wetland.	Wetland E does not meet the definition of an adjacent wetland [33 CFR 328.3(c)(1)(i)-(iv)], is not considered a water of the United States per 33 CFR 328.3(b)(1), and is not subject to regulation under Section 404. Reference Section III B of this AJD form for typical year assessments.
Wetland F (PEM)	0.032	acre(s)	(b)(1) Non-adjacent wetland.	Wetland F does not meet the definition of an adjacent wetland [33 CFR 328.3(c)(1)(i)-(iv)], is not considered a water of the United States per 33 CFR 328.3(b)(1), and is not subject to regulation under Section 404. Reference Section III B of this AJD form for typical year assessments.

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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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
Wetland G (PEM)	0.04	acre(s)	(b)(1) Non-adjacent wetland.	Wetland G does not meet the definition of an adjacent wetland [33 CFR 328.3(c)(1)(i)-(iv)], is not considered a water of the United States per 33 CFR 328.3(b)(1), and is not subject to regulation under Section 404. Reference Section III B of this AJD form for typical year assessments.
Pond A	0.45	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Pond A does not flow to an (a)(1) or (a)(2) water, is an artificial (manmade) feature constructed entirely in uplands and is not an impoundment of a (a)(1)-(a)(3) water, and is not subject to regulation under Section 404.
Pond B	0.99	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Pond B does not flow to an (a)(1) or (a)(2) water, is an artificial (manmade) feature constructed entirely in uplands and is not an impoundment of a (a)(1)-(a)(3) water, and is not subject to regulation under Section 404.
Ditch 4	435	linear 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 a ditch with ephemeral flow that was excavated in uplands. Ditch 4 does not relocate a tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland. Ditch 4 is not considered a water of the United States per 33 CFR 328.3(b)(5).
Ditch 5	606	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch	Ditch 5 is a ditch with ephemeral flow that was excavated in uplands. Ditch 4 does not relocate a tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Ditch 5 is not considered a water of the United States per 33 CFR 328.3(b)(5).
Ditch 6 (ephemeral)	626	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ditch 6 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (b)(3). Reference Section III B of this AJD form for typical year assessments.
Ditch 7	618	linear 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 a ditch with ephemeral flow that was excavated in uplands. Ditch 4 does not relocate a tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland. Ditch 7 is not considered a water of the United States per 33 CFR 328.3(b)(5).
Ditch 9	299	linear 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 9 is a ditch with ephemeral flow that was excavated in uplands. Ditch 4 does not relocate a tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland. Ditch 9 is not considered a water of the United States per 33 CFR 328.3(b)(5).
Ditch 10	55	linear 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 10 is a ditch with ephemeral flow that was excavated in uplands. Ditch 4 does not relocate a tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland. Ditch 10 is not considered a water of the United States per 33 CFR 328.3(b)(5).
Ditch 11	208	linear 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	Ditch 11 is a ditch with ephemeral flow that was excavated in uplands. Ditch 4 does not relocate a tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland. Ditch 11 is not considered a water of the United States per 33 CFR 328.3(b)(5).



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
		conditions of (c)(1).	
Ditch 12	398	linear 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 12 is a ditch with ephemeral flow that was excavated in uplands. Ditch 4 does not relocate a tributary, was not constructed in a tributary, and was not constructed in an adjacent wetland. Ditch 12 is not considered a water of the United States per 33 CFR 328.3(b)(5).

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: [Wetland and Watercourse Delineation Report, Stark Farm – 340-acre \(approximate\) Property, North of Fohl Street SW and East and West of Sterilite Street SE, Navarre, Stark County, Ohio dated March 19, 2019 \(report\); Figure 1. Stark Farm–Overall Field Data Location Map \(dated 2020-09-09, submitted as additional information\)](#)

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: [Aerial and Other: Figure 5 \(report\) and Photographic Documentation Log \(report\)](#)
- Corps site visit(s) conducted on: [24 July 2019](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [LRH-2011-16 dated 9 January 2012](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Figure 3 \(report\)](#)
- USFWS NWI maps: [Figure 4 \(report\)](#)
- USGS topographic maps: [Figure 2 \(report\)](#)

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): A typical year occurs over a rolling thirty year period and includes the analysis of precipitation and other climatic variables to establish a normal period range (seasonally or annually) for a specific geographic region where the aquatic resource occurs. One (1) point-in-time data source, dated 6 May 2020, with a corresponding antecedent precipitation tool (APT) report, was included in



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the evaluation for the excluded features onsite and listed in Section II D. Wetland adjacency was assessed on 6 May 2020. According to the APT report for 6 May 2020, normal conditions were observed during the WebWIMP wet season with a Palmer Drought Severity Index Value of extreme wetness. The 30-day rolling total for precipitation fell within the 30-year normal range. Even during the normal precipitation range during the WebWIMP wet season, Wetlands A – G still did not meet the definition of an adjacent wetland. Wetlands A – G do not abut a water identified in 33 CFR 328.3(a)(1), (2), or (3), are not inundated by flooding from a water identified in 33 CFR 328.3(a)(1), (2), or (3) in a typical year, are not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature, and are not physically separated from a water identified in 33 CFR 328.3(a)(1), (2), or (3) only by an artificial dike, barrier, or similar artificial structure.

Additionally, it has been determined that Ditches 4, 5, 7, and 9 -12 are not waters of the United States per 33 CFR 328.3(a)(1) or (2), were not constructed in an adjacent wetland per 33 CFR 328.2 (a)(4), are not considered waters of the United States per 33 CFR 328.3(b)(5), and are not subject to regulation under Section 404.

C. Additional comments to support AJD: The propers is located outside of the FEMA 100 year floodplain.