



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): 5/26/2021
ORM Number: LRH-2021-275-TUS
Associated JDs: N/A
Review Area Location¹: State/Territory: OH City: Akron County: Summit
Center Coordinates of Review Area: 41.018686°N, 81.530663°W

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
Wetland 1	2.95 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between	Wetland 1 is separated from the Tuscarawas River only via culvert underneath North Turkeyfoot Road. Therefore, Wetland 1 meets the definition of an adjacent wetland [33 CFR 328.3(c)(1)(i)-

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.



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		the wetland and the (a)(1)-(a)(3) water, in a typical year.	(iv)], is considered a water of the United States per 33 CFR 328.3(a)(4), and is subject to regulation under Section 404.
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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 2	0.01 acre	(b)(1) Non-adjacent wetland.	Wetland 2 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.

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 Delineation and Surface Water Study, Gardner Pie Company, North Turkeyfoot Road, Akron, Summit County, Ohio dated February 2020 \(Report, Feb 2020\)](#)
This information *is* sufficient for purposes of this AJD.
Rationale: [The information provided by or on behalf of the applicant accurately reflects the district's conclusions on the AJD.](#)
- Data sheets prepared by the Corps: *Title(s) and/or date(s).*
- Photographs: [Appendix B – Representative Photographs \(Report, Feb 2020\)](#); Aerial: [Figure 2, Aquatic Features Map \(Report, Feb 2020\)](#)
- Corps Site visit(s) conducted on: [8 April 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: [Figure 3 – Summit County Soil Map \(Report, Feb 2020\)](#)
- USFWS NWI maps: [Figure 4 – National Wetland Inventory Map \(Report, Feb 2020\)](#)
- USGS topographic maps: [Figure 1 – USGS Topographic Map \(Report, Feb 2020\)](#)

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	Corps Regulatory GIS Viewers
State/Local/Tribal Sources	N/A.
Other Sources	Appendix A – Field Data Forms: Wetland Determination Forms and ORAM forms (Report, Feb 2020)

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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Other Sources

Appendix B – Wetland Dataforms (JD, Oct 2020)

- B. Typical year assessment(s):** A typical year occurs over a rolling 30-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. Three (3) point-in-time data sources dated 20 August 2019 (data collection for delineation, visit 1), 3 February 2020 (data collection for delineation, visit 2), and 8 April 2021 (Corps site visit), each with a corresponding antecedent precipitation tool (APT) report, are included in the evaluation for the features listed in Section II D, as applicable. According to the APT report for 20 August 2019, normal conditions with an antecedent condition calculation of 10 were observed during the WebWIMP dry season with a Palmer Drought Severity Index Value of severe wetness. The 30-day rolling total for precipitation was below the 30-year normal range. According to the APT report for 3 February 2020, drier than normal conditions with an antecedent condition calculation of 6 were observed during the WebWIMP wet season with a Palmer Drought Severity Index Value of moderate wetness. The 30-day rolling total for precipitation was below the 30-year normal range. According to the APT report for 8 April 2021, drier than normal conditions with an antecedent condition calculation of 6 were observed during the WebWIMP wet season with a Palmer Drought Severity Index Value of mild drought. The 30-day rolling total for precipitation was below the 30-year normal range.

Based on a review of the submitted information, jurisdictional determination site visit, and additional information available, Wetland 1 is separated from the Tuscarawas River, an (a)(1) water, only via culvert underneath North Turkeyfoot Road, outside of the project review area. Wetland 1 contributes surface water flow indirectly to an (a)(1) water in a typical year. Therefore, Wetland 1 meets the definition of an adjacent wetland [33 CFR 328.3(c)(1)(i)-(iv)] and is considered a jurisdictional water of the United States per 33 CFR 328.3(a)(4).

Based on a review of the submitted information, jurisdictional determination site visit, and additional information available, Wetland 2 does not abut a water identified in 33 CFR 328.3(a)(1), (2), or (3), is not inundated by flooding from a water identified in 33 CFR 328.3(a)(1), (2), or (3) in a typical year, is 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 is 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. Therefore, Wetland 2 is not a jurisdictional water of the United States per 33 CFR 328.3(b)(1).

- C. Additional comments to support AJD:** According to the National Flood Hazard FEMA map, the site is not located within the 100-year floodplain.

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.