



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): 5/5/2021
ORM Number: LRH-2021-336-TUS-UNT to Pigeon Creek
Associated JDs: N/A
Review Area Location¹: State/Territory: OH City: Akron County: Summit
Center Coordinates of Review Area: 41.074622°N, 81.634908°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
Ditch 1	102.4 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Ditch 1 is an intermittent unnamed tributary to Pigeon Creek, an indirect tributary to the Tuscarawas River, an (a)(1) water, at a location outside of the review area. Ditch 1 contributes intermittent surface water flow indirectly to the Tuscarawas River, an (a)(1) water, in a typical year (reference Section III B of this AJD form).
Ditch 2	76.1 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Ditch 2 is an intermittent unnamed tributary to Pigeon Creek, an indirect tributary to the Tuscarawas River, an (a)(1) water, at a location outside of the review area. Ditch 2 contributes intermittent surface water flow

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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			indirectly to the Tuscarawas River, an (a)(1) water, in a typical year (reference Section III B of this AJD form).
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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	0.38 acre	(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.	Pond 1 contributes surface water flow to a water identified in 33 CFR 328.3(a)(1) in a typical year either directly or through one or more waters identified in 33 CFR 328.3(a)(2)-(4), and is a water of the United States per 33 CFR 328.3(a)(3).

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.	

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Excluded waters ((b)(1) – (b)(12)) ⁴ :			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
N/A	N/A	N/A.	N/A

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: [After-the-Fact Wetland Delineation, Parcel Number 1505287, Copley Township, Summit County, Ohio dated October 2020 \(Report, Oct 2020\)](#)
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 – Photographic Log \(Report, Oct 2020\)](#)
[aerial: Appendix A - Figures 3A-E: Historic Aerial Images \(2009, 2012, 2014, 2016, 2018\) and Appendix A - Figure 4B: Aquatic Resources Map-Aerial \(Report, Oct 2020\)](#)
- Corps Site visit(s) conducted on: [5 October 2020](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s).*
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

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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- USDA NRCS Soil Survey: [Exhibit 3 – Soil Survey \(JD, Oct 2020\)](#)
- USFWS NWI maps: [Exhibit 5 – National Wetland Inventory Map \(JD, Oct 2020\)](#)
- USGS topographic maps: [Exhibit 1 – Location Map and Exhibit 2 – USGS Topographic Map \(JD, Oct 2020\)](#)

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 C – Wetland Determination Data Forms (Report, Oct 2020)

- 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. Two (2) point-in-time data sources dated 25 September 2020 and 5 October 2020, 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 25 September 2020, normal conditions with an antecedent condition calculation of 12 were observed during the WebWIMP dry season. The 30-day rolling total for precipitation was slightly above the 30-year normal range. According to the APT report for 5 October 2020, drier than normal conditions with an antecedent condition calculation of 9 were observed during the WebWIMP wet season. The 30-day rolling total for precipitation was below the 30-year normal range. On 5 October 2020, Ditches 1 and 2 exhibited flow within the stream channel which corresponds with the APT report conditions. Field indicators of intermittent flow were observed in Ditches 1 and 2, including a clearly defined bed and bank. Based on the submitted information, Ditches 1 and 2 contribute intermittent flow downstream indirectly to the Tuscarawas River, an (a)(1) water, in a typical year. Therefore, Ditches 1 and 2 are (a)(2) waters. Pond 1 directly abuts Ditch 1, which contributes intermittent flow downstream to an (a)(1) water in a typical year. Therefore, Pond 1 is an (a)(3) water.
- C. Additional comments to support AJD:** According to the National Flood Hazard FEMA map, the site is not located within the 100-year floodplain.

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