

**TRADITIONAL NAVIGABLE WATERWAYS (TNWs) IN THE BUFFALO DISTRICT
APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers**

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 2004-00951

B. BACKGROUND INFORMATION: As stated in Appendix D of the US Army Corps of Engineers (Corps) Jurisdictional Determination Form Instructional Guidebook: “when determining whether a water body qualifies as a “traditionally navigable water (TNW)” relevant considerations include whether a Corps District has determined that the water body is a navigable water of the United States pursuant to 33 C.F.R § 329.14, or the water body qualifies as a navigable water of the United States under any of the tests set forth in 33 C.F.R. § 329, or a federal court has determined that the water body is navigable-in-fact under federal law for any purpose, or the water body is “navigable-in-fact” under the standards that have been used by the federal courts. In addition, Appendix D affirms that EPA and the Corps will continue to assert jurisdiction over “[a]ll waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.” 33 C.F.R. § 328.3(a)(1); 40 C.F.R. § 230.3(s)(1).

The following provides the rationale and supporting documentation for TNW designation pursuant to Appendix D for the subject water body occurring within the Buffalo District’s regulatory boundaries in the states of New York and Ohio. Posting of this jurisdictional determination establishes Corps jurisdiction over this TNW under Section 404 of the Clean Water Act. The Buffalo District reserves the right to revise this determination at anytime as additional information warrants. The Buffalo District has determined that a site/project specific jurisdictional determination involving this TNW is not required as a TNW designation has already been completed. This and other approved jurisdictional determinations for TNWs are posted on the Buffalo District’s regulatory website at <http://www.lrb.usace.army.mil/regulatory/jd.htm>. In addition, the current list of TNWs, including extent of each designation, occurring within the geographic limits of the Buffalo District may also be found on the Buffalo District’s regulatory website at <http://www.lrb.usace.army.mil/regulatory/TNWny.pdf> and <http://www.lrb.usace.army.mil/regulatory/TNWoh.pdf>

C. TNW/LOCATION

TNW: Aurora Pond and Northwest tributary
State: Ohio County(ies): Summit, Portage Municipalities: Reminderville, Geauga Lake, Twinsburg

D. REVIEW PERFORMED FOR SITE EVALUATION:

- Office (Desk) Determination. Date: 6/30/08
 Field Determination. Date(s):

SUMMARY OF FINDINGS

CWA SECTION 404 DETERMINATION OF JURISDICTION.

The subject water body is a “*water of the U.S.*” under Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328).

- a. Limits (boundaries) of TNW designation:** AURORA POND, IN ITS ENTIRETY, IS INCLUDED IN THE TNW DESIGNATION. THE NORTHWESTERN TRIBUTARY FLOWS SOUTHEAST ALONG NAUTILUS TRAIL THEN DISCHARGES INTO AURORA POND. THE LIMITS OF THE TNW DESIGNATION OF THE TRIBUTARY ARE FROM GLENWOOD DRIVE TO AURORA POND. The extent of the TNW described herein is depicted on the attached figure.
- b. Rationale supporting determination:** This determination is based on the review and compilation of published information, reports/studies, and field observations to characterize the historical, present and/or potential use of this water body for navigation, including consideration of its use or potential susceptibility to use in interstate and foreign commerce. During this process the following information was documented:

1. The physical characteristics, including its depth and size, indicate that the waterbody has the capacity to be navigated by watercraft.
 - i. The unnamed tributary to Aurora Pond has been channelized and widened to allow the use of recreational boats. Surrounding the channel, a residential development has developed with the intent to utilize the channel for easy access to the lake. In aerial photography, it is clear that docks exist along the channel, and some boats are able to be observed. The channel is 1.8 miles in length from the northern end to the southern mouth at Aurora Pond. This length also includes two fingers that extend to the south from the main channel.

Aurora Pond is 648 acres in area. Its north-south length is approximately 1.35 miles. The east-west length varies, but is greatest in the center of the lake, measuring 0.75 miles. The lake is utilized by recreational watercraft as well as for recreational sporting activities such as fishing and swimming. A public beach is located on the southwestern shore of the lake providing access to non-residents.
2. The waterbody is currently used for activities involving navigation and interstate commerce, such as recreational commercial navigation.
 - i. The waterbody has been utilized by recreational watercraft for many years and continues to be utilized for this purpose.

Conclusion: Collectively, the above discussed factors demonstrate that Aurora Pond and the northwestern unnamed tributary are navigable-in-fact, resulting in its designation as a TNW for purposes of CWA jurisdictional determinations and is currently used in interstate or foreign commerce associated with commercial recreational navigation activities. This determination establishes Corps jurisdiction over this water body as a TNW under Section 404 of the Clean Water Act, pursuant to 33 C.F.R. Part 328.3(a)(1).

DATA SOURCES.

SUPPORTING DATA. Data reviewed for JD (check all that apply):

- Data sheets prepared by the Corps:
- Corps navigable waters' study:.
- U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Twinsburg Quad
- USDA Natural Resources Conservation Service Soil Survey. Citation: Summit County Soil Survey
- National wetlands inventory map(s). Cite name: Twinsburg Quad
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Google Earth, 6/30/08; Mapquest 6/30/08
or Other (Name & Date):
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):