



**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): 9/4/2020  
 ORM Number: LRL-2018-469-sjk  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: IN City: Fishers County/Parish/Borough: Hamilton  
 Center Coordinates of Review Area: Latitude 39.9300 Longitude -86.0700

**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
Behner Brook	981	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
UNT 2	540	linear feet	(a)(2) Intermittent tributary contributes
			Inspections of this stream during the dry season indicates groundwater influence has created intermittent flow.

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<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 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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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
			surface water flow directly or indirectly to an (a)(1) water in a typical year.	
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.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland A	0.336	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Behner Brook (perennial) flows through Wetland A. There is no physical break or separation between the wetland and the stream, which regularly floods the wetland. The wetland lies within a basin-like feature.
Wetland C	0.585	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Behner Brook (perennial) flows through Wetland C. There is no physical break or separation between the wetland and the stream, which regularly floods the wetland. The wetland lies within a basin-like feature.
Wetland D	0.156	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Behner Brook (perennial) flows through Wetland D. There is no physical break or separation between the wetland and the stream, which regularly floods the wetland. The wetland lies within a basin-like feature.
Wetland E	0.047	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	UNT 2 (intermittent) flows through Wetland E. There is no physical break or separation between the wetland and the stream.

**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
Wetland B	0.015	acre(s)	(b)(1) Non-adjacent wetland.	Wetland developed at the headwater to ephemeral stream, UNT 1. It neither abuts nor is inundated by an (a)(1)-(a)(3) water in a typical year.
Wetland F	0.012	acre(s)	(b)(1) Non-adjacent wetland.	Wetland lies in a microtopographic “bowl” within a forested area. It neither abuts nor is inundated by flooding from an (a)(1)-(a)(3) water in a typical year.

<sup>4</sup> 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.

<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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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Wetland G	0.122	acre(s)	(b)(1) Non-adjacent wetland.	Wetland lies in a topographic “bowl” that may have been created by adjacent gravel mining operations. It neither abuts nor is inundated by flooding from an (a)(1)-(a)(3) water in a typical year.
Wetland H	1.958	acre(s)	(b)(1) Non-adjacent wetland.	Wetland lies at the toe-of-slope of higher areas to the north, east, and south. It flows west into a compensatory wetland mitigation site which flows into the White River. However, there is no evidence that shows the wetland receives flood water in a typical year. It neither abuts nor is inundated by an (a)(1)-(a)(3) water in a typical year.
UNT 1	232	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Multiple inspections of this stream during normal climatic conditions indicates it only conveys flow after a rain event.
UNT 3	46	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Multiple inspections of this stream during normal climatic conditions indicates it only conveys flow after a rain event.
UNT 4	344	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Multiple inspections of this stream during normal climatic conditions indicates it only conveys flow after a rain event.
EF 1	377	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	EF1 is an erosional gully originating from a previously graded construction site.
EF 2	90	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	EF2 is an erosional gully originating from a previously graded construction site.
IF 1	0.054	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut nor is inundated by a (a)(1)-(a)(3) water in a typical year. It has developed in a topographical bowl.
IF 2	0.082	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut nor is inundated by a (a)(1)-(a)(3) water in a typical year. The wetland developed in a low area that is driven through by ATVs.



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
IF 3	0.242	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut nor is inundated by a (a)(1)-(a)(3) water in a typical year. It was likely created by previous grading of the site.
IF 4	2.012	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut nor is inundated by a (a)(1)-(a)(3) water in a typical year. It has developed in an area that was previously graded with poor drainage.
IF 5	0.092	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut nor is inundated by a (a)(1)-(a)(3) water in a typical year. It has developed in an area that was previously graded with poor drainage.
IF 6	11.19	acre(s)	(b)(1) Non-adjacent wetland.	Wetland is on a high plateau that is mapped in a floodplain but only receives hydrology from groundwater and surface flow from the east. Aerials during flooding conditions do not show river flow reaching his area. It does not abut nor is inundated by flooding by an (a)(1)-(a)(3) water in a typical year.
IF 7	0.137	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut nor is inundated by a (a)(1)-(a)(3) water in a typical year. It has developed in an area that was previously graded with poor drainage and is being used by ATVs.
IF 8	0.02	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut nor is inundated by a (a)(1)-(a)(3) water in a typical year. It has developed in an area that was previously graded with poor drainage.
IF 9	0.112	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut nor is inundated by a (a)(1)-(a)(3) water in a typical year. It has developed in an area that was previously graded with poor drainage.

**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 Waters Report dated 8/7/2018 by American Structurepoint.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

Photographs: [Aerial and Other: Site photos in delineation report dated 2/2018 and 8/2018; 2005, 2016 \(IndianaMap, delineation report\); 7/18/18 USACE site photos; 1941, 1956 \(Hamilton County GIS\); 3/2/18, 12/19/19 \(DigitalGlobe\).](#)

Corps site visit(s) conducted on: [7/18/18](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [LRL-2018-469-sjk, issued 11/6/18](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)



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- USDA NRCS Soil Survey: [Web Soil Survey, Hamilton County and 1978 Soil Survey \(see delineation report\)](#)
- USFWS NWI maps: [map in delineation report](#)
- USGS topographic maps: [7.5', Fishers quad.](#)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">N/A.</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">LiDAR/DEM/Hillshade from Regulatory Viewer</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">FEMA/FIRM maps</a>	<a href="#">Panel 237, 18057C0237G, revised 11/19/2014</a>

**B. Typical year assessment(s):**

[2/13/18: Date of wetland delineation and stream assessments: The APT shows that the delineation was performed during a period of severe wetness in the wet season with normal climatic conditions.](#)

[7/18/18 – Date of USACE site inspection: The APT shows that the inspection occurred during a period of mild wetness during the dry season with normal climatic conditions.](#)

[8/2/2018 – Date of consultant re-inspection and delineation revision: The APT shows the inspection occurred during a period of moderate wetness during the dry season with normal climatic conditions.](#)

**C. Additional comments to support AJD: [N/A](#)**