



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): 24-JUL-2020  
ORM Number: LRL-2020-00438-cat  
Associated JDs: N/A  
Review Area Location<sup>1</sup>:  
State/Territory: IN City: Lawrenceburg County/Parish/Borough: Dearborn County  
Center Coordinates of Review Area: Latitude 39.144275, Longitude -84.861131

**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
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

<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 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.

<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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Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland-A	0.16 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature	Wetland-A was separated from an (a)(1) water (Tanners Creek) by a single natural feature. The natural feature was a natural berm separating the wetland depression from the incised stream bank. Wetland-A did not have a direct connection to an (a)(1)-(a)(3) water and was not inundated by an (a)(1)-(a)(3) water in a typical year.

**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
Stream-1	101 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-1 was not an (a)(1) or (a)(2) water. Stream-1 is an ephemeral channel that is periodically inundated by back water conditions from Tanners Creek. The channel contained terrestrial vegetation below the OHWM. Precipitation had occurred within the 48 hours prior to the assessment and flow was not present.
Stream-2	50 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-2 was not an (a)(1) or (a)(2) water. Stream-2 is an ephemeral channel. Precipitation had occurred within the 48 hours prior to the assessment and flow was not present.
Stream-3	481 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-3 was not an (a)(1) or (a)(2) water. Stream-3 is an ephemeral channel and exhibited pooling of water at the time of the assessment. The pooling was a result of excessive amounts debris in the channel from the clearing of woody vegetation and precipitation received within the 48 hours prior to the assessment. The channel contained terrestrial vegetation below the OHWM.
Stream-4	180 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream-4 was not an (a)(1) or (a)(2) water. Stream-4 did not exhibited flow at the time of the assessment regardless of precipitation occurring within the 48 hours prior to the assessment. The channel contained terrestrial vegetation within the OHWMs indicating ephemeral flow.
Wetland-B	0.06 acres	(b)(1) Non-adjacent wetland	Wetland-B was not an (a)(4) water. Wetland-B was not directly connected to an (a)(1) – (a)(3) water, did not receive annual inundation during typical years, and was separated by multiple natural features from an (a)(1)-(a)(3) water.

**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: *Jurisdictional Waters Delineation Report: The Crossings at Tanner's Creek submitted by O'Brien & Gere*

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<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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*Engineers, Inc. dated May 19, 2020 and revised Figure 4 Map dated June 15, 2020.*

This information is sufficient for purposes of this AJD.

Rationale: NA.

- Data sheets prepared by the Corps: *Title(s) and/or date(s).*
- Photographs: *(aerial) Google Earth, 2020.*
- Corps Site visit(s) conducted on: *Date(s).*
- 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: *Title(s) and/or date(s).*
- USFWS NWI maps: *Title(s) and/or date(s).*
- USGS topographic maps: *1:24,000 Hooven, OH.*

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

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS 03276650 TANNERS CREEK AT LAWRENCEBURG, IN; USGS 03277200 OHIO RIVER AT MARKLAND DAM NEAR WARSAW, KY
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):** The PDSI Drought Index indicates “Mild Wetness” at the project location. The Web WIMP H2O Balance indicates a Wet Season. The Antecedent Precipitation Tool determined normal conditions existed at the project site for the three (3) months prior to the July, 8 2020 site visit.

**C. Additional comments to support AJD:** N/A or provide additional discussion as appropriate.

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