



**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): 8/7/2020

ORM Number: LRL-2020-495-scm

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Indiana City: Knightstown County/Parish/Borough: Henry County

Center Coordinates of Review Area: Latitude 39.840242 N Longitude -85.554908 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)<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  |
| Unnamed tributary (UNT) 1 to Montgomery Creek | 509         | linear feet     | (a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year. Tributary contains intermittent flow throughout the year (as evidenced by numerous aerals listed in Section IIIA below, and multiple observations by the delineation consultant during normal conditions and drier than normal conditions). UNT 1 to Montgomery Creek contributes flow downstream into Montgomery Creek, which flows into the Big Blue River, which flows into the Driftwood River, which flows into the East Fork of White River, which flows into the White River (TNW). See Section IIIB for additional information. |

<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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|   |             |      |                 |                                    |
|---|-------------|------|-----------------|------------------------------------|
| 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 |
| N/A.                               | N/A.        | N/A. | N/A.            | N/A.                               |

**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 1  | 0.27           | acre(s) | (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1). | Ditch was wholly excavated in an upland area. Wetland features are present within lateral limits of ditch. Ditch neither abuts nor is inundated by floodwater from an (a)(1) – (a)(3) water in a typical year. Ditch does not contribute surface water flow to an (a)(1) – (a)(3) water in a typical year. (see NRCS & NHD Maps, and Waters Report Photos) |
| Wetland 2  | 0.19           | acre(s) | (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1). | Ditch was wholly excavated in an upland area. Wetland features are present within lateral limits of ditch. Ditch neither abuts nor is inundated by floodwater from an (a)(1) – (a)(3) water in a typical year. Ditch does not contribute surface water flow to an (a)(1) – (a)(3) water in a typical year. (see NRCS & NHD Maps, and Waters Report Photos) |
| Wetland 3  | 0.20           | acre(s) | (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1). | Ditch was wholly excavated in an upland area. Wetland features are present within lateral limits of ditch. Ditch neither abuts nor is inundated by floodwater from an (a)(1) – (a)(3) water in a typical year. Ditch does not contribute surface water flow to an (a)(1) – (a)(3) water in a typical year. (see NRCS & NHD Maps, and Waters Report Photos) |
| Wetland 4  | 0.11           | acre(s) | (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1). | Ditch was wholly excavated in an upland area. Wetland features are present within lateral limits of ditch. Ditch neither abuts nor is inundated by floodwater from an (a)(1) – (a)(3) water in a typical year. Ditch does not contribute surface water flow to an (a)(1) – (a)(3) water in a typical year. (see NRCS & NHD Maps, and Waters Report Photos) |

<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 5  | 0.08           | acre(s)                | (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1). | Ditch was wholly excavated in an upland area. Wetland features are present within lateral limits of ditch. Ditch neither abuts nor is inundated by floodwater from an (a)(1) – (a)(3) water in a typical year. Ditch does not contribute surface water flow to an (a)(1) – (a)(3) water in a typical year. (see NRCS & NHD Maps, and Waters Report Photos) |
| Wetland 6  | 0.04           | acre(s)                | (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1). | Ditch was wholly excavated in an upland area. Wetland features are present within lateral limits of ditch. Ditch neither abuts nor is inundated by floodwater from an (a)(1) – (a)(3) water in a typical year. Ditch does not contribute surface water flow to an (a)(1) – (a)(3) water in a typical year. (see NRCS & NHD Maps, and Waters Report Photos) |

**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: [Waters of the US Determination Report, SR 109 at I-70 Intersection Improvement with Added Turn Lanes, Henry County, Indiana \(Des. No. 1702985\), dated June 5, 2020, prepared by Lochmueller Group consultants.](#)

This information **Select.** sufficient for purposes of this AJD.

Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\).](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial and Other: Site photos in Waters of the US Determination Report \(May 6 & 28, 2019, July 30, 2019, & October 9, 2019\)](#)
- 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: [Web Soil Survey, Henry County \(see Waters of the US Determination Report\)](#)
- USFWS NWI maps: [NWI Map \(see Waters of the US Determination Report\)](#)
- USGS topographic maps: [USGS Topographic Map, Knightstown, IN Quadrangles \(see Waters of the US Determination Report\)](#)

**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="#">N/A.</a>                            |
| <a href="#">State/Local/Tribal Sources</a> | <a href="#">N/A.</a>                            |



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|-------------------------------|---|
| Data Source (select)          | Name and/or date and other relevant information |
| <a href="#">Other Sources</a> | <a href="#">N/A.</a>                            |

- B. Typical year assessment(s):** The APT was utilized for two site visits completed by Lochmueller Group. Photos taken during the 5/28/2019 delineation site visit showed regular flow within UNT 1 to Montgomery Creek (see [Waters of the US Determination Report photos](#)). For the 5/28/2019 site visit, APT data shows normal climatic conditions (see [2019-05-28.pdf](#)), confirming “typical year” conditions for this date. Photos taken during the 10/9/2019 delineation site visit showed little flow within UNT 1 to Montgomery Creek (see [Waters of the US Determination Report photos](#)). For the 10/9/2019 site visit, APT data shows drier than normal conditions (see [2019-10-09.pdf](#)), confirming “atypical year” conditions for this date. Therefore, Lochmueller Group consultant’s observations and APT data indicate that the hydrologic conditions observed at the site for 5/28/2019 are considered “typical year” conditions.
- C. Additional comments to support AJD:** [N/A](#) or provide additional discussion as appropriate.