



**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): [7/23/2020](#)
 ORM Number: [LRL-2020-532-LCL](#)
 Associated JDs: [N/A](#).
 Review Area Location¹: State/Territory: [IN](#) City: [Glenwood](#) County/Parish/Borough: [Rush](#)
 Center Coordinates of Review Area: Latitude [39.6188](#) Longitude [-85.3165](#)

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
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.

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.

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 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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Ephemeral ditch	3,000	linear feet	(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).	The feature within the review area was reported as an open man-made ditch. It appears to be a moderate trapezoidal-shaped agricultural ditch and relatively straight, with an overall average width of about 6 feet. Review of historical aerials indicate that at least some sort of feature was present in the location of the ditch in 1969, 1961, 1956, and possibly 1940. The feature is also present as a dashed blue-line on the USGS quadrangle. Therefore, there is insufficient evidence to say the ditch was constructed entirely in uplands, and is evaluated to determine if it was “constructed or excavated in” a tributary or adjacent wetland. The ditch is located at the very upland headwater area of the watershed. According to StreamStats, the ditch drains 488 acres, and it begins on the same site, about 1,800 feet south of the review area. The ditch appears to receive water only from upland runoff and surrounding drain tiles. Based on a combination of supporting evidence, including the APT and typical year analysis in Section III.B., review of on-site photos, and information from the landowner, it is determined that the ditch does not have perennial or intermittent flow in a typical year, and was not constructed in adjacent wetlands. Therefore, the ditch is excluded under paragraph 33 CFR 323.3(b)(5).

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: DA permit application dated 6-20-20; NRCS field maps dated 7-9-14; site photos 7-15-20; Information about rainfall and flow conditions.

This information is and is not sufficient for purposes of this AJD.

Rationale: Partial insufficiency due to additional data and information needed to complete JD.

- Data sheets prepared by the Corps: Title(s) and/or date(s).
- Photographs: Aerial and Other: Digital Globe Aerial – 8/5/18; Google Earth Aerials – 9/24/14, 9/25/13, 2/28/05; IU IGS Historical Aerials – 1940, 1956, 1961, 1969; Landowner Site photos – 7/15/20.
- Corps site visit(s) conducted on: Date(s).

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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- 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: [Title\(s\) and/or date\(s\)](#).

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	NOAA Rainfall Records 2/28/05, 8/5/18.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other information (specify)	LRL Regulatory Viewer Maps – DEM, Hillshade, USGS Topo map.
Other information (specify)	StreamStats Basin Report.

B. Typical year assessment(s):

1. Review of 2/28/2005 Aerial. Water is observed in ditch. APT analysis reports normal climatic conditions. However, WebWimp indicates wet season and the PDSI drought index indicates severe wetness. The second preceding month to the aerial date shows an extreme rainfall amount of 8.23 inches. Additionally, NOAA rainfall records show 0.22 inches of rain on and the day before the aerial date. Therefore, although normal climatic conditions are reported by the APT, it is expected water would be observed in the ditch due to recent rainfall and the extreme amount of rainfall leading up to the aerial date.
2. Review of 9/25/2013 Aerial. Water cannot be observed in ditch; appears dry. APT analysis reports normal climatic conditions. Observed rainfall records show 6.25 inches in the 30 days prior to the aerial date. This evidence indicates that the ditch is ephemeral and does not support not perennial or intermittent flow.
3. Review of 9/24/2014 Aerial. Water cannot be observed in ditch; appears dry. APT analysis reports normal climatic conditions. Observed rainfall records show 3.88 inches in the 30 days prior to the aerial date, and 6.22 inches in the second preceding month. This evidence indicates that the ditch is ephemeral and does not support not perennial or intermittent flow.
4. Review of 8/5/2018 Aerial. Water cannot be observed in ditch; appears dry. APT analysis reports normal climatic conditions. Observed rainfall records show 4.7 inches in the 30 days prior to the aerial date, and 5.4 inches in the second preceding month. This evidence indicates that the ditch is ephemeral and does not support not perennial or intermittent flow.
5. Review of landowner on-site photos dated 7/15/2020. Photos show no water in ditch; dry and overgrown with weeds. The APT analysis reports slightly drier than normal conditions, with the PDSI drought index reporting mild wetness. Rainfall records show 2.7 inches in the preceding month, and 5.3 inches in the second preceding month.
6. Discussion of flow regime with landowner/applicant. The Corps asked the landowner if during typical conditions the ditch flows only during or shortly after rainfall events, or if it ever flows for extended periods of a week or two. The landowner states that it does not flow that long – “if we receive a half inch of rain, it would be done flowing in 2 days.” This evidence further indicates the ditch is ephemeral and does not support perennial or intermittent flow.

-Based on the typical year assessment and review of all gathered information, it is determined that the



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ditch is ephemeral and does not support perennial or intermittent flow.

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