



**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): 7/29/2020

ORM Number: LRL-2020-607

Associated JDs: N/A

Review Area Location¹: State/Territory: Indiana City: Indianapolis County/Parish/Borough: Hancock and Henry

Center Coordinates of Review Area: Latitude 39.825951 Longitude -85.674646

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
- 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
UNT 5 Nameless Creek	717 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	UNT 5 Nameless Creek is an intermittent stream that contributes surface water flow to the White River (Section 10 water) through Nameless Creek, the Big Blue River, the Driftwood River, and East Fork White River.

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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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
UNT 2 Sixmile Creek	267	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	UNT 2 Sixmile Creek is an intermittent stream that contributes surface water flow to the White River (Section 10 water) through Sixmile Creek, the Big Blue River, the Driftwood River, and East Fork White River.
UNT 1 Montgomery Creek	1816	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	UNT 1 Montgomery Creek is an intermittent stream that contributes surface water flow to the White River (Section 10 water) through Montgomery Creek, the Big Blue River, the Driftwood River, and East Fork White River.

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)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetlands 19, 20, 22, 42, 43, 47, 70	0.088	acre(s)	(b)(1) Non-adjacent wetland.	Wetlands have formed in depressions in maintained interstate right of way as a result of poor drainage. There are no (a)(1), (a)(2), or (a)(3) waters located near the wetlands.
Wetlands 1 through 18, 21, 23 through 41, 44 through 46, 48 through 69, 71, UNTs 2 and 3 Nameless Creek, UNTs 1, 3, and 5 Sixmile Creek	7.741	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).	Roadside ditches excavated for stormwater drainage of interstate highway. Excavated in upland, draining only upland.

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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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
UNTs 1, 4, and 6 Nameless Creek, UNT 4 Sixmile Creek, UNT 2 Montgomery Creek	402	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. Streams flow only in response to rain events. The channels had a defined bed and bank and OHW mark. Although the delineation was conducted in a period of wetness, the streams had little to no flow. See typical year assessment below in Section III. B.

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 U.S. Determination Report, I-70 HMA Overlay and Preventative Maintenance Project 5.03 Miles East of State Road 9 to 0.24 mile East of State Road 109 Hancock and Henry Counties, Indiana, Des. No. 1700897](#)

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: In Waters Report](#)
- 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](#)
- USFWS NWI maps: [Cleveland and Knightstown quads](#)
- USGS topographic maps: [Cleveland and Knightstown quads](#)

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	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): The photos of the ephemeral streams that are included in the Waters Report were taken on May 7, 8, 15, 28, 30, 31, & July 30, 2019. These photos showed channels with little to no water in the streams that are listed as ephemeral above. Data from the Antecedent Precipitation Tool indicates that both May 2019 was wetter than normal in the wet season and July 2019 was wetter than normal in the dry season. Since the conditions were wetter than the 30 year average range, and the photos showed no or little flow, the channels were determined to be ephemeral.

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