



**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): 9/23/2020
 ORM Number: LRL-2020-728-lcl
 Associated JDs: N/A.
 Review Area Location¹: State/Territory: Indiana City: Dunkirk County/Parish/Borough: Jay
 Center Coordinates of Review Area: Latitude 40.3783 Longitude -85.1917

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
WET-A-01	0.44	acre(s)	(b)(1) Non-adjacent wetland.	WET-A-01 is an emergent wetland located in the 9.8 acre review area. The closest potential a(2) tributary appears to be Dunkirk Drain located approximately 0.42 miles to the southwest. The wetland does not meet the definition of adjacent wetlands per 33 CFR 328.3 (c)(1)(i)(ii)(iii) or (iv), and is therefore excluded per 33 CFR 328.3 (b)(1) as a non-adjacent wetland.
WET-A-02	0.07	acre(s)	(b)(1) Non-adjacent wetland.	WET-A-02 is a scrub-shrub wetland located in the 9.8 acre review area. The closest potential a(2) tributary appears to be Dunkirk Drain located approximately 0.42 miles to the southwest. The wetland does not meet the definition of adjacent wetlands per 33 CFR 328.3 (c)(1)(i)(ii)(iii) or (iv), and is therefore excluded per 33 CFR 328.3 (b)(1) as a non-adjacent wetland.
WET-A-03	0.16	acre(s)	(b)(1) Non-adjacent wetland.	WET-A-03 is a forested wetland located in the 9.8 acre review area. The closest potential a(2) tributary appears to be Dunkirk Drain located approximately 0.42 miles to the southwest. The wetland does not meet the definition of adjacent wetlands per 33 CFR 328.3 (c)(1)(i)(ii)(iii) or (iv), and is therefore excluded per 33 CFR 328.3 (b)(1) as a non-adjacent wetland.
WET-B	0.01	acre(s)	(b)(1) Non-adjacent wetland.	WET-B is a forested wetland located in the 9.8 acre review area. The closest potential a(2) tributary appears to be Dunkirk Drain located approximately 0.42 miles to the southwest. The wetland does not meet the definition of adjacent wetlands per 33 CFR 328.3 (c)(1)(i)(ii)(iii) or (iv), and is therefore excluded per 33 CFR 328.3 (b)(1) as a non-adjacent wetland.
DD-01	~300	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	DD-01 is an agricultural swale/rill within the review area that extends from Wetland A into the farm field to the west/southwest. No OHWM is present, and only a slight bed and bank is present in some areas. The bed and bank is discontinuous and appears to dissipate further off-site to the west.

III. SUPPORTING INFORMATION

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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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: [Power Engineers Wetland Delineation Report, AEP Jay Substation Expansion Project dated January 22, 2020.](#)
This information is and is not sufficient for purposes of this AJD.
Rationale: [Report data and delineation is sufficient; however recommended jurisdictional status in report is based on Rapanos and is therefore no longer correct.](#)
- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial and Other: Delineation Report – undated aerial, site photos – August 23 & September 18, 2018, January 15, 2020. Google Earth Aerials 6-19-10 & 9-24-14. Digital Globe Aerial 4-21-20.](#)
- 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: [NRCS Web soil survey report 9-21-20.](#)
- USFWS NWI maps: [Title\(s\) and/or date\(s\).](#)
- USGS topographic maps: [See delineation report.](#)

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	LRL Regulatory Viewer – FEMA Floodplain Map.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): [N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.](#)

C. Additional comments to support AJD: [N/A or provide additional discussion as appropriate.](#)