



**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): 3/15/2021

ORM Number: LRL-2021-85

Associated JDs: N/A

Review Area Location¹: State/Territory: Indiana City: N/A County/Parish/Borough: Clark and Scott

Center Coordinates of Review Area: Latitude 38.604767 Longitude -85.781478

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.	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.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Blue Lick Creek, Caney Fork, Wolf Run, Miller Fork, Pigeon Roost Creek	787	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Blue Lick Creek and Miller Fork are perennial streams that flow to Silver Creek, which is a designated Section 10 water for a portion of its length. Caney Fork and Wolf Run are perennial streams that flow to Miller Fork, which flows to Silver Creek, which is a designated Section 10 water for a portion of its length. Pigeon Roost Creek to Stucker Ditch to Muscatatuck, which flows to the East Fork White

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
			River, which is a designated Section 10 water
UNT Blue Lick Creek, Henry Brook, Ville Run, UNTs 1, 3, 4 Miller Fork, UNT Caney Fork, UNT 2 Wolf Run, Meal Run, UNT 1 Meal Run, Wheel Run, West Fork Silver Creek, UNT West Fork Silver Creek, UNT Underwood Run, Tree Creek, UNT Tree Creek, UNT 1 Sycamore Run, Sycamore Run, Nest Run, UNTs 2, 3, and 4 Nest Run, Elm Branch, UNT Elm Branch, UNTs 2, 4, 6, 7, and 8 Honey Run	4,306	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
			UNT Blue Lick Creek flows to Blue Lick Creek, which flows to Silver Creek; Henry Brook and Ville Run and UNTs 1, 3, and 4 Miller Fork flow to Miller Fork, which flows to Silver Creek, which is a designated Section 10 water for a portion of its length; UNT Caney Fork flows to Caney Fork, which flows to Miller Fork, which flows to Silver Creek; UNT 2 Wolf Run flows to Wolf Run, which flows to Miller Fork, which flows to Silver Creek; UNT 1 to Meal Run flows to Meal Run, Meal Run flows to Mill Branch, which flows to Miller Fork, which flows to Silver Creek; Wheel Run flows to Mill Branch, which flows to Miller Fork, which flows to Silver Creek; UNT to West Fork Silver Creek flows to West Fork Silver Creek, West Fork Silver Creek flows to Silver Creek; UNT Underwood Run flows to Underwood Run, which flows to Silver Creek; Tree Creek flows to Pigeon Roost Creek, which flows to Stucker Ditch, which flows to the Muscatatuck River, which flows to East Fork White River, a designated Section 10 water; UNT 1 Sycamore Run flows to Sycamore Run, Sycamore Run and Nest Run flow to Tree Creek, which flows to Pigeon Roost Creek, which flows to Stucker Ditch, which flows to the Muscatatuck River, which flows to East Fork White River; UNTs 2, 3, and 4 Nest Run flow to Nest Run, Nest Run flows to Tree Creek, which flows to Pigeon Roost Creek, which flows to Stucker Ditch, which flows to the Muscatatuck River, which flows to the East Fork White River; UNT Elm Branch flows to Elm Branch, Elm Branch flows to Maple Run, which flows to Pigeon Roost Creek, which flows to Stucker Ditch, which flows to the East Fork White River UNTs 2, 4, 6, 7, and 8 Honey Run flows to Honey Run, which flows to Ox Creek, which flows to Stucker Ditch, which flows to the Muscatatuck River, which flows to East Fork White River



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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
Wetlands 3.1, 12, 65, 69, and 86	0.326	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetlands 3.1 and 65 abut Caney Fork, Wetland 12 abuts Miller Fork, Wetland 69 abuts Henry Brook, and Wetland 86 abuts an intermittent UNT Underwood Run that is outside of the I65 right-of-way. The wetlands all directly abut an (a)(2) water.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
UNT 1 Wolf Run, UNT 2 Miller Fork, UNT Pigeon Roost Creek, UNT 2 Sycamore Run, UNT 1 Nest Run, UNTs 1, 3, 5, and 9 Honey Run	521	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on the physical conditions of the streams and observations by consultant, these are ephemeral features. The stream flows only in response to rain events. The channel had a defined bed and bank and OHW mark. The streams had very little flow after a rainfall event in the dry season. See III.B. Typical Year Assessment
UNT to Blue Lick Creek CV, Henry Brook CVs 1 and 2, Ville Run CV, Wolf Run CV, UNT 3 to Miller Fork CV, Miller Fork CV, UNT 1 to Meal Run CV, Meal Run CV, Wheel Run CVs 1 and 2, West Fork Silver Creek CV, UNT to West Fork Silver Creek CV, UNT to Underwood Run CV, Tree Creek CV, UNT	6,089	linear feet	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories.	Culverts are artificial features

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	
to Tree Creek CV, Sycamore Run CV, UNTs 1 and 2 to Sycamore Run CV, UNTs 2 and 4 to Nest Run CV, Nest Run CV, Elm Branch CV, UNT to Elm Branch CV, UNT 2 to Honey Run CV, UNT 7 to Honey Run CV, UNT 9 to Honey Run CV, UNT 6 to Honey Run CV				
Wetlands 2, 3.2, 4, 5, 6, 7, 8, 11, 13, 14, 15, 16, 17, 19, 20, 21.2, 22, 23, 25, 26, 28, 29, 30, 31, 32, 33, 39, 41.1, 43, 45, 46, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 64, 66, 67, 68, 70, 71, 72, 73, 74, 75, 77, 79, 82, 83, 84, 85, 87, 88, 89, 90, 91, 92, 93, 94, 96, 97, 98, 99, 103, 104, and 105	4	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).	These features are ditches parallel to the road that were excavated as stormwater features
Wetlands 1, 9, 10, 18, 21.1, 24, 27, 34, 35, 36, 37, 38, 40, 41.2, 42, 44, 49, 63, 76, 78, 80, 81, 95, 100, 101, 102, and 106	3.36	acre(s)	(b)(1) Non-adjacent wetland.	Wetland neither abuts nor is inundated by floodwater in a typical year from an (a)(1) – (a)(3)water.



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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: [Wetland Delineation and Waters Report I-65 Added Travel Lanes from 0.5 mile North of Blue Lick Road to 1.5 miles North of SR 56, Des. No. 1700135, Scottsburg and Henryville, Clark and Scott Counties, Indiana](#)

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

Rationale: [The Corps has determined that some of the streams that were reported as ephemeral in the Waters Report were intermittent. See Section III.C.](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial and Other: from Water Report](#)
- Corps site visit(s) conducted on: [March 11, 2021](#)
- 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: [Henryville, Scottsburg, and Speed, Indiana quadrangles](#)
- USGS topographic maps: [Henryville, Scottsburg, and Speed, Indiana quadrangles](#)

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 photographs in the Waters Reports were taken between August 31 and September 3, 2020. The results of the Antecedent Precipitation Tool show that the photos were taken in the dry season in conditions wetter than normal with a drought index of mild wetness. In addition, there was a rain event during the site investigations. UNT 1 Wolf Run, UNT 2, UNT Pigeon Roost Creek, UNT 2 Sycamore Run, UNT 1 Nest Run, and UNTs 1, 3, 5, and 9 Honey Run had very little or no water in the photos and were determined to be ephemeral streams.](#)

C. Additional comments to support AJD: [The determination that some of the waters reported as ephemeral were actually intermittent was based on a review of the photos in the waters report and observations made in the field by a Corps employee on March 11, 2021. The report photos of some of the ephemeral streams had as much water, or more, than the photos of the intermittent streams. The day that the Corps site visit was conducted was two weeks after the last precipitation event and some of the streams that were questioned had water. Based on this information, the Corps determined that 9 streams that had been called ephemeral were in fact intermittent.](#)