



**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): 1/28/2021  
 ORM Number: LRL-2019-960-MKD  
 Associated JDs: LRL-2019-960-MKD AJD and PJD (January 16, 2020)  
 Review Area Location<sup>1</sup>: State/Territory: Indiana City: Jeffersonville County/Parish/Borough: Clark  
 Center Coordinates of Review Area: Latitude 38.365976 Longitude -85.659263

**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
Perennial Stream 1	355 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Contributes water to an (a)(1) indirectly. Perennial Stream 1 begins at a seep emerging from a rock outcrop and flows northeast for 355 linear feet before continuing off site to a downstream connection with Battle Creek. Perennial Stream 1 ranges from five to eight feet wide with bank heights ranging from two to three feet and a substrate consisting of silt, gravel, cobble, boulder, and bedrock. During the field assessment by Redwing on September 17, 2019, Perennial Stream 1 exhibited flowing water measuring three to four inches in depth.

<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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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Intermittent Stream 1	1,165	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent Stream (IS) 1 measures 6 to 10 feet in width with bank heights ranging from 1-6 feet. The substrate consists of silt, gravel, cobble, and boulders. IS 1 is identified in topographic maps and a dotted blue line. The stream channel exhibited small pools of water with minimal flows during the delineation site visit on October 11, 2019.
Intermittent Stream 2	1,075	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent Stream 2 originates from a groundwater seep and measures 4-6 feet wide with bank heights ranging from 6 inches to 4 feet and a substrate mainly consisting of silt, gravel, cobble, and bedrock. The stream exhibited small pools of water with minimal flows during the delineation site visit on September 17, 2019.
Intermittent Stream 3	920	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent Stream 3 measures 3-4 feet wide with bank heights ranging from 1-3 feet and a substrate consisting of silt, gravel, and cobble. The stream was dry during the delineation site visit on September 17, 2019.
Intermittent Stream 4	280	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent Stream 4 measures 2 feet wide with bank heights ranging from 1-3 feet and a substrate consisting of silt, gravel, cobble, and bedrock. The stream exhibited small pools of water with minimal flow during the delineation site visit on September 17, 2019.

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
Wetland 1	0.025	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland 1 is a small emergent wetland that directly abuts Intermittent Stream 4.
Wetland 2	0.081	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland 2 is a small emergent wetland that formed from a seep and directly abuts Perennial Stream 1.

**D. Excluded Waters or Features**



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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
Ephemeral Stream 1	360	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral Stream (ES) 1 is an erosional feature that flows directly into a sinkhole. The channel is approximately 1-3 feet wide with bank heights ranging from 6 inches to 1 foot. The channel was dry at the time of the Corps site visit on November 15, 2019.
Ephemeral Stream 2	115	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	ES2 is approximately 1 to 2 feet in width with a substrate of silt, gravel, and cobble. The stream channel was dry during the delineation site visit on September 17, 2019.
Ephemeral Stream 3	250	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	ES2 is approximately 2 feet in width with a substrate of silt, gravel, and cobble. The stream channel was dry during the delineation site visit on September 17, 2019.
Ephemeral Stream 4	480	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	ES2 is approximately 2-3 feet in width with a substrate of silt, gravel, cobble, and bedrock. The stream channel was dry during the delineation site visit on September 17, 2019.
Ephemeral Stream 5	60	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	ES2 is approximately 1 foot in width with a substrate of silt, gravel, and cobble. The stream channel was dry during the delineation site visit on September 17, 2019.
Ephemeral Stream 6	70	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	ES2 is approximately 1 to 2 feet in width with a substrate of silt, gravel, and cobble. The stream channel was dry during the delineation site visit on September 17, 2019.
Ephemeral Stream 7	185	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	ES2 is approximately 2 feet in width with a substrate of silt, gravel, cobble, and bedrock. The stream channel was dry during the delineation site visit on September 17, 2019.
Ephemeral Stream 8	125	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	ES2 is approximately 1 foot in width with a substrate of silt, gravel, and cobble. The stream channel was dry during the delineation site visit on September 17, 2019.

**III. SUPPORTING INFORMATION**

<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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**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: [Request for Jurisdictional Determination, Project Neon Oct. 11, 2019, Revised Water/Wetland Location Map August 3, 2020](#)

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: [Other: Photos Submitted in Delineation](#)

Corps site visit(s) conducted on: [Date\(s\)](#).

Previous Jurisdictional Determinations (AJDs or PJDs): [LRL-2019-960-MKD \(AJD and PJD\)](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [NRCS WebSoil Survey](#)

USFWS NWI maps: [USFWS NWI](#)

USGS topographic maps: [1:24K, Jeffersonville](#)

**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>
<a href="#">Other Sources</a>	<a href="#">N/A.</a>

**B. Typical year assessment(s):** [The ATP tool was utilized for the dates of the delineation and the Corps' site visit. The conditions for the September 2019 delineation site visit and Corps' site visit in November 2019 were considered normal. The ATP report for the October delineation site visit states that the conditions were drier than normal; however, a search of Weather Underground Historic Weather data shows that approximately 2 inches of rain fall was recorded in the area in the week leading up to the date of the visit.](#)

**C. Additional comments to support AJD:** [Multiple jurisdictional determinations have been completed for the site, due to the changes in regulations. In 2019, an approved jurisdictional determination was completed for ephemeral stream 1. The remaining features of the site were included in a preliminary jurisdictional determination.](#)