



**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): 1/7/2021  
 ORM Number: LRL-2020-119-MKD  
 Associated JDs: LRL-2020-119-MKD PJD  
 Review Area Location<sup>1</sup>: State/Territory: Indiana City: Lanesville County/Parish/Borough: Floyd  
 Center Coordinates of Review Area: Latitude 38.284979 Longitude -85.920661

**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.	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.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Woertz Creek	1,698	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Woertz Creek is identified as a dashed blue line in topographic maps. During the delineation site visit water was observed flowing throughout the entire stream channel. Photos submitted with the delineation show the entire bed of the stream with flowing water. Historic weather data indicates that the site received approximately 2.55 inches of rain in the week prior to the site visit. The ATP tool indicates that the delineation site visit was conducted under normal conditions.

<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 1	1,453	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent 1 is identified as a dashed blue line in topographic maps that flows into Woertz Creek. During the delineations site visit water was observed flowing/pooled in portions of the stream channel. Photos submitted with the delineation show most of the stream bed of dry with water limited to pools and small flows in between the pools. Historic weather data indicates that the site received approximately 2.55 inches of rain in the week prior to the site visit. The ATP tool indicates that the delineation site visit was conducted under normal conditions.
Intermittent 2	283	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent 2 flows into Woertz Creek. The stream channel is approximately 2-8 feet wide with bank heights ranging from 2-4 feet. During the delineations site visit water was observed flowing/pooled in portions of the stream channel. Photos submitted with the delineation show most of the stream bed dry with water limited to pools and small flows in between the pools. Historic weather data indicates that the site received approximately 2.55 inches of rain in the week prior to the site visit. The ATP tool indicates that the delineation site visit was conducted under normal conditions.
Intermittent 3	92	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent 3 flows into Woertz Creek. The stream channel is approximately 2-8 feet wide with bank heights ranging from 3 inches to 8 feet. During the delineations site visit water was observed flowing/pooled in portions of the stream channel. Photos submitted with the delineation show most of the stream bed dry with water limited to pools and small flows in between the pools. Historic weather data indicates that the site received approximately 2.55 inches of rain in the week prior to the site visit. The ATP tool indicates that the delineation site visit was conducted under normal conditions.

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**



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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 1	430	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral 1 is approximately 6-12 inches wide with bank heights ranging from 2-4 inches, however, the channel is not clearly defined throughout the entire length. The stream flows off-site eventually into Woertz Creek. Photos submitted in the delineation show a stream channel with heavy vegetation and pooled water. Historic weather data indicates that the site received approximately 2.55 inches of rain in the week prior to the site visit. The ATP tool indicates that the delineation site visit was conducted under normal conditions.
Ephemeral 2	32	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral 2 is approximately 1 foot wide with bank heights ranging from 2 inches to 2 feet. The stream channel was dry during the delineation site visit. Historic weather data indicates that the site received approximately 2.55 inches of rain in the week prior to the site visit. The ATP tool indicates that the delineation site visit was conducted under normal conditions.
Ephemeral 3	608	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral 3 is approximately 1-8 feet in width with bank heights ranging from 2 inches to 2 feet. The stream channel was dry during the delineation site visit. Historic weather data indicates that the site received approximately 2.55 inches of rain in the week prior to the site visit. The ATP tool indicates that the delineation site visit was conducted under normal conditions.
Ephemeral 4	942	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Ephemeral 4 is approximately 1-6 feet in width with bank heights ranging from 1-8 inches. The stream channel was dry during the delineation site visit. Historic weather data indicates that the site received approximately 2.55 inches of rain in the week prior to the site visit. The ATP tool indicates that the delineation site visit was conducted under normal conditions.

**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.

<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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Information submitted by, or on behalf of, the applicant/consultant: [Request for Jurisdictional Determination Kulbitskas Property dated February 3, 2020](#), [Request for Updated Jurisdictional Determination Kulbitskas Property dated November 11, 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 with Delineation](#)

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 Websoil Survey](#)

USFWS NWI maps: [USFWS NWI](#)

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

**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="#">Weather Underground Historic Data</a>

**B. Typical year assessment(s):** [The ATP Tool was used for the date of the delineation site visit, January 8, 2020. Conditions at the site were considered within the 30-year normal range.](#)

**C. Additional comments to support AJD:** [The website, Weather Underground, was used to reference rainfall data for the week leading up to the delineations site visit. Approximately 2.55 inches of rainfall was observed over a 7 day period before the site visit.](#)