



**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): 10/22/2020

ORM Number: LRL-2020-238-sam

Associated JDs: NA

Review Area Location¹: State/Territory: Indiana City: Morgantown County/Parish/Borough: Brown

Center Coordinates of Review Area: Latitude 39.26251 Longitude -86.2916

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
W2	1.76	acre(s)	(a)(4) Wetland inundated by flooding from an
W2 is located within a shallow depression of the field in the floodway of Beanblossom Creek, which is a perennial tributary. During wet season and high			

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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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
			(a)(1)-(a)(3) water in a typical year.	water events, water flows out of Beanblossom Creek, into and through W2 into S1 and back into Beanblossom Creek. Property owner indicated that the wetland is inundated yearly usually during early spring during wet season.
W3	1.23	acre(s)	(a)(4) Wetland inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	W3 is located within a shallow depression of the field in the floodway of Beanblossom Creek. During wet season and high water events, water flows out of Beanblossom Creek, through W3 into S1 and back into Beanblossom Creek. Property owner indicated that the wetland is inundated yearly usually during early spring during wet season.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
S1	2,260	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	S1 provides flow through the northern boundary and western boundary. Un-impacted portion of S1 in the North shows a small channel where there is enough flow to maintain an ordinary high water mark but not enough to keep vegetation from growing in the channel.
W1	4.3	acre(s)	(b)(1) Non-adjacent wetland.	W1 abuts S1, a non-jurisdictional water, but is not inundated by flooding from Beanblossom Creek in a typical year.

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: **Title(s) and date(s)**
This information **Select.** sufficient for purposes of this AJD.
Rationale: **N/A or describe rationale for insufficiency (including partial insufficiency).**
- Data sheets prepared by the Corps: **Data point 1; March 11, 2020**
- Photographs: **Other: Site photos collected on March 11, 2020 and August 10, 2020**
- Corps site visit(s) conducted on: **March 11, 2020, and August 10, 2020**
- 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: **Title(s) and/or date(s).**
- USFWS NWI maps: **Stream and NWI Map, dated March 24, 2020**
- USGS topographic maps: **Title(s) and/or date(s).**

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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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	GIS - Online Regulatory Viewer

B. Typical year assessment(s): Two site visits were conducted on the property. The first was conducted on March 11, 2020. Based on the APT data, the site visit was conducted during the wet season and it was wetter than normal. The drought index indicated a severe wetness for that time period. Based on site conditions and the wetness of the property, the data reflects site conditions. During the August 10, 2020 site visit, the APT data indicated the site visit occurred during the dry season, during wet conditions. The drought index indicated the area as being in a period of severe wetness. A look at the daily total of rainfall for the area, for the period leading up to the site visits was above normal average rainfall. However, in the month prior, the area received rainfall well below average. The aquatic features observed on the dates of the two site visits allowed the Corps to make a jurisdictional determination under “typical year” conditions.

C. Additional comments to support AJD: A close examination of Stream 1 during the site visits indicated that the stream is an ephemeral channel with a limited watershed. Much of the stream had been dredged and cleaned out via one-step removal, which greatly enlarged the channel. Looking at the channel immediately upstream of the impacts indicates that the channel is very shallow and only about 12-18 inches wide. Vegetation is growing in the middle of the channel indicating that the stream does not receive enough flow to keep vegetation out and only contains flow in direct response to precipitation. Wetland 1 abuts Stream 1, but is not adjacent to any regulated tributary or other jurisdictional waters.

A review of the Floodway/Floodplain data indicates that the review area is in the floodway of Beanblossom Creek with W2 and W3 being closer to BeanBlossom Creek and W1 located on the northern edge of the floodway. During site visit it was noted that to the east of W2 and W3, Beanbloosom Creek has large meanders where during high water flow, the floodwaters come out of the banks and through W2 and W3, then enter S1 on the west side of the wetlands and re-enter Beanblossom Creek. W1 is located in a landscape position such that the floodwaters from Beanblossom Creek do not inundate W1 in a typical year. A conversation with the landowner confirmed that W2 and W3 routinely receive floodwater from Beanblossom Creek, which is not the case with WL1. A review of the LiDAR and hillshade data confirms site visit observations showing flowpaths from Beanblossom Creek through W2 and W3 and then into S1 and back to Beanblossom Creek. Beanblossom Creek is a perennial A(2) water that contributes flow to an A(1) water, the White River, in a typical year.