



**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): 2/26/2021

ORM Number: LRL-2020-699-LCL

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Indiana City: Noblesville County/Parish/Borough: Hamilton

Center Coordinates of Review Area: Latitude 40.0407 Longitude -86.0251

**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
West Fork White River	271	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The West Fork White River is a perennial stream which eventually becomes a TNW further downstream and is therefore an (a)(2) tributary.
Cicero Creek	268	linear feet	(a)(2) Perennial tributary contributes	Cicero Creek is a perennial stream which flows into the West Fork White River, which becomes a TNW. Therefore, Cicero Creek is an (a)(2) tributary.

<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
			surface water flow directly or indirectly to an (a)(1) water in a typical year.	
Elwood Wilson Drain (UNT Stony Creek)	244	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Elwood Wilson Drain is a perennial unnamed tributary to Stony Creek, which flows into Stony Creek, which flows into the West Fork White River, which becomes a TNW. Therefore, Elwood Wilson Drain is an (a)(2) tributary.

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**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
UNT 1	290	linear feet	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Reported UNT 1 is a man-made stormwater ditch. It is located along the south side of an old railroad bed. The ditch was constructed between 1998 and 2001 when the adjacent subdivision was built, and stormwater runoff was conveyed through the ditch to Cicero Creek.
UNT 2	784	linear feet	(b)(10) Stormwater control feature constructed or excavated in upland or in a	Reported UNT 2 is a large ditch/stormwater feature that was excavated in uplands. The feature was constructed sometime between 1976 and 1985, likely closer to 1985 as recent soil grading can be seen in the aerial. This appears to have been completed at the same

<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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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
		non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	time commercial developments were being constructed to the north along SR 38 and Mensa Drive. It is likely this feature was constructed to convey stormwater from the developments as well as the surrounding uplands. Historic aerials and desktop review indicate the area where the feature was constructed was entirely upland agricultural ground prior to construction.
Wetland A	1.19	acre(s)	(b)(1) Non-adjacent wetland.
			Reported Wetland A is comprised of 0.20 acre PEM, 0.98 acre PFO, and 0.01 acre open water in the review area. The wetland extends further south outside the review area. The wetland is separated from Cicero Creek by Cherry Tree Road. A tile inlet was observed in the wetland, which appears to lead to a storm structure junction box along the west side of Cherry Tree Road. Other storm drains come into the junction box as well. A pipe appears to exit from the junction box leading under Cherry Tree Road and into Cicero Creek. The distance from the wetland to the creek is ~150 feet. The wetland is not abutting or inundated in a typical year by an (a)(2) tributary. It is also not separated only by a natural feature. The wetland is physically separated by an artificial structure (the road). However, the structure does not allow a direct hydrological surface connection in a typical year, such as though a culvert. The underground pipe system does not constitute a sufficient artificial feature providing a direct hydrological surface connection. Thus, 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
Wetland B	0.02	acre(s)	(b)(1) Non-adjacent wetland.
			Reported Wetland B is a small emergent wetland located 350 feet from the White River. There is no evidence that it is inundated by flooding in a typical year. 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.
Pond 1	0.43	acre(s)	(b)(10) Stormwater control feature constructed or excavated in
			Reported Pond 1 is a man-made stormwater detention pond at the Hamilton County Fairgrounds. It was excavated from uplands between 1994 and 1997.



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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
		upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	
Stormwater Basin	0.19	acre(s) (b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	The reported stormwater basin was constructed in uplands in 2015-2016 for the associated commercial self-storage development. This project was reviewed under LRL-2014-559, and it was determined that no permit was required for the development and basin construction.

**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 of the U.S. Report, East-West Corridor Project, by CHA Consulting, dated November 13, 2020, revised February 22, 2021.](#)

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

Rationale: [Report data sufficient but additional desktop resources required for determination.](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

Photographs: [Aerial and Other: Delineation Report: Site Photos June 10, August 14, October 27, 2020, Aerials 2017, 2001, 1974. USACE site photos January 27, 2021.](#)

Corps site visit(s) conducted on: [1-27-2021.](#)

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: [See delineation report.](#)

USFWS NWI maps: [See delineation report.](#)

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
<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="#">Hamilton County GIS Aerials – 1941, 1976, 1985, 1994, 1998, 2001, 2005.</a>



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- B. Typical year assessment(s):** APT analysis was run for each of the consultants field investigation dates. APT indicates normal typical year conditions were present on June 10, 2020, and October 27, 2020. Wetter than normal conditions were present on August 14, 2020. The APT was also run for the USACE site visit on January 27, 2021, which showed that normal typical year conditions were present.
- C. Additional comments to support AJD:** N/A.