



**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): 7/28/2021

ORM Number: LRL-2021-294

Associated JDs: N/A

Review Area Location¹: State/Territory: Indiana City: Mulberry County/Parish/Borough: Tippecanoe and Clinton Counties

Center Coordinates of Review Area: Latitude 40.344453 Longitude -86.663670

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
South Fork Wildcat Creek, UNT 8 Kilmore Creek	188 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	South Fork Wildcat Creek flows to Wildcat Creek, which flows to the Wabash River, which is a designated Section 10 water; UNT 8 Kilmore Creek flows to Kilmore Creek, which is a tributary of South Fork Wildcat Creek
UNT 3 Hog Run, UNT 4	453 linear feet	(a)(2) Intermittent tributary	UNT 3 Hog Run flows to Hog Run, which flows to Middle Fork Wildcat Creek, which flows to Wildcat

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
South Fork Wildcat Creek, UNT 6, 9, 10 and 12 Kilmore Creek			contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Creek, which flows to the Wabash River. UNT 4 South Fork Wildcat Creek flows to South Fork Wildcat Creek. UNT 12 Kilmore Creek flows to Kilmore Creek, which flows to South Fork Wildcat Creek.

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 C	0.007	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Directly abuts 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
RSDs 1 through 17, UNT 7 Kilmore Creek	10,269	linear feet	(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).	Roadside ditches excavated for stormwater.
UNT 2 South Fork Wildcat Creek, UNT 5 and 11 Kilmore Creek	983	N/A.	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on the physical conditions of the streams and observations by the Corps, 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 stream had very little flow in the wet season. See typical year assessment below in Section III. B.
UNT 1 and 2 South Fork Wildcat Creek CV, UNT 3 Hog Creek CV, UNT	527	linear feet	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet	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
6, 7, 8, 9, 10, 11, and 12 Kilmore Creek C		the other (b)(1) subcategories.	

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: [Waters of the U.S. Determination Report SR 38 HMA Overlay and Minor Structural in Tippecanoe and Clinton Counties, Indiana Des. No. 1601074, October 15, 2019](#)

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

Rationale: [Field visit was required to determine jurisdiction of the UNTs.](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial and Other: From the Waters of U.S. Determination](#)
- Corps site visit(s) conducted on: [June 15, 2021](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Web Soil Survey](#)
- USFWS NWI maps: [Mulberry and Frankfort, Indiana quads](#)
- USGS topographic maps: [Mulberry and Frankfort, Indiana quads](#)

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 photos of the resources in the Waters Report were taken June 19, 2019, and February 11, 2020. The APT showed that June 19, 2019, was in the dry season with normal conditions and a drought index of severe wetness and that February 11, 2020, was in the wet season with normal conditions and a drought index of severe wetness. The photos showed varying amounts of water in the UNTs and, in some cases, led to questions about the consultant’s determination of ephemeral vs. intermittent flow. A Corps employee completed a site investigation on June 15, 2021, which the APT shows as being in the dry season with drier than normal conditions and a drought index of incipient drought. The observations by the Corps in the field, with full consideration of the APT results, resulted in confirmation of most of the consultant’s decision and changing a few of the determinations.

C. Additional comments to support AJD: [N/A or provide additional discussion as appropriate.](#)