



**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): 7/8/2020
 ORM Number: LRL-2019-416-LCL
 Associated JDs: N/A.
 Review Area Location¹: State/Territory: IN City: Indianapolis County/Parish/Borough: Marion
 Center Coordinates of Review Area: Latitude 39.8935 Longitude -86.2124

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
Wetland 03	0.23	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3)
The forested wetland is located only 45 feet from the top of bank of Crooked Creek, which would be considered a perennial (a)(2) tributary. The wetland			

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
		water only by a natural feature.	is entirely within the 100-year floodplain, and partially within the floodway. Based on elevations and LIDAR the wetland is in a slight depression separated from the creek only by a natural berm feature, which can be easily seen.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Stream 04	397 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 04 is an ephemeral feature with an OHWM width of 1 foot and depth of 0.2 foot. Dominant substrates are sand and silt. The stream has a drainage area of only 0.02 sq. miles or 12.8 acres. The channel of the stream becomes less defined as it approaches Crooked Creek, losing its bed and bank. Based on the drainage area, physical conditions of the stream, typical year analysis in Section III.B. below, and site observations after rainfall events by the consultant (although outside normal conditions), the evidence shows this is an ephemeral feature.
Stream 05	169 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 05 is an ephemeral feature with an OHWM width of 1 foot and depth of 0.2 foot. Dominant substrates are sand and silt. The stream has a drainage area of only 0.01 sq. miles or 6.4 acres. The stream does not connect to any downstream (a)(1), (a)(2), or (a)(3) water. Based on the drainage area, physical conditions of the stream, typical year analysis in Section III.B. below, and site observations after rainfall events by the consultant (although outside normal conditions), the evidence shows this is an ephemeral feature.

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: [Regulated Waters Delineation Report, Augusta Heights – Phase I, Indianapolis, Marion County, Indiana, June 25, 2020, by Cardno.](#)
This information is sufficient for purposes of this AJD.
Rationale: [N/A.](#)

- Data sheets prepared by the Corps: [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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- Photographs: **Aerial and Other:** Google Earth Aerials: 2/29/1992, 2/28/2005, 3/14/2006, 8/29/2012, 10/17/2015, 3/2/2018, 10/22/2018. Site photos in Delineation Report dated April 2019 and June 2020.
- 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: **Title(s) and/or date(s).**
- USFWS NWI maps: **Title(s) and/or date(s).**
- USGS topographic maps: **Title(s) and/or date(s).**

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	LRL Regulatory Viewer Map – Hillshade with FEMA FIRM and Wetland Boundary Overlay

B. Typical year assessment(s): APT analysis was conducted for Cardno delineation dates on April 16 & 17, 2019. Water was observed flowing in the ephemeral channels on these dates. The APT indicates that conditions were wetter than normal. The PDSI Drought Index indicates extreme wetness for this time period. Additionally, a total of 1.74 inches of rainfall occurred in the 7 days prior, with 1.08 inches occurring 2 days prior to the site visits. Therefore, it is reasonable that water would be flowing in the ephemeral channels due to wetter than normal conditions and recent rainfall events.

Cardno also visited the site on June 25, 2020. Flow was not observed, however the APT analysis indicates that conditions were drier than normal for the preceding 3 months. The PDSI Drought Index indicates moderate wetness for this time period. However, a total of 0.75 inches of rainfall occurred 2 days prior to the site visit. Although conditions at this time were drier than normal, the fact that no observance of flow was documented 2 days following a 0.75 inch rain event does provide further support, along with rationale discussed in Section II.D. above, that Stream 04 and 05 are ephemeral features.

C. Additional comments to support AJD: N/A or provide additional discussion as appropriate.