



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): 15-DEC-2020
ORM Number: LRE-1995-1570310-J20
Associated JDs: N/A
Review Area Location¹: I-65 Transportation Corridor over Carpenter Creek
State/Territory: Indiana City: Rensselaer County/Parish/Borough: Jasper County
Center Coordinates of Review Area: Latitude 40.877843 Longitude -87.195742

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 |
|---------------|-------------|-----------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| INDOT, Stream | 627 feet | (a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year | Carpenter Creek flows east through the review area and continues offsite in a northeast direction. See Section III.C. for additional information. |

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):

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

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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 independent 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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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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| (a)(4) Name | (a)(4) Size | (a)(4) Criteria | Rationale for (a)(4) Determination |
|-------------|-------------|-----------------|------------------------------------|
| N/A | N/A | N/A | N/A |

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

| Exclusion Name | Exclusion Size | Exclusion ⁵ | Rationale for Exclusion Determination |
|------------------|----------------|--------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| INDOT, UNT 1 | 62 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | UNT 1, as described in the Waters of the U.S. Report, is an ephemeral feature approximately 62 feet long within the review area. UNT 1 originates from a corrugated metal pipe and flows northwest to its confluence with Carpenter Creek. See Section III.C. for additional information. |
| INDOT, UNT 2 | 870 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | UNT 2, as described in the Waters of the U.S. Report, is an ephemeral feature approximately 870 feet long within the review area. UNT 2 originates northwest of I-65 and flows southeast beneath both the northbound and southbound lanes of I-65 before converging with Carpenter Creek. See Section III.C. for additional information. |
| INDOT, UNT 3 | 67 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | UNT 3, as described in the Waters of the U.S. Report, is an ephemeral feature approximately 67 feet long within the review area. UNT 3 originates northwest of I-65 outside of the review area and flows southeast to its confluence with UNT 2. See Section III.C. for additional information. |
| INDOT, UNT 4 | 143 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | UNT 4, as described in the Waters of the U.S. Report, is an ephemeral feature approximately 143 feet long within the review area. UNT 4 originates within the median of the northbound and southbound lanes of I-65 and flows southeast before converging with UNT 2. See Section III.C. for additional information. |
| INDOT, UNT 5 | 147 feet | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool | UNT 5, as described in the Waters of the U.S. Report, is an ephemeral feature approximately 147 feet long within the review area. UNT 5 originates within the median of the northbound and southbound lanes of I-65 and flows south between Wetland C and Wetland B. See Section III.C. for additional information. |
| INDOT, Wetland A | 0.17 acres | (b)(1) Non-adjacent wetland | See Section III.C. for additional information. |
| INDOT, Wetland B | 0.044 acres | (b)(1) Non-adjacent wetland | See Section III.C. for additional information. |
| INDOT, Wetland C | 0.282 acres | (b)(1) Non-adjacent wetland | See Section III.C. for additional information. |
| INDOT, Wetland D | 0.0247 acres | (b)(1) Non-adjacent wetland | See Section III.C. for additional information. |
| INDOT, Wetland E | 0.148 acres | (b)(1) Non-adjacent wetland | See Section III.C. for additional information. |

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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.

XX Information submitted by, or on behalf of, the applicant/consultant: *“Waters of the U.S. Report I-65 over Carpenter Creek Superstructure Widening & Replacement”*, prepared by HNTB, dated October 18, 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)*.

XX Photographs: *Waters of the U.S. Report, Attachment Pages 63-123 of 127, dated April 08, 2020, September 03, 2020, and October 29, 2020.*

Corps Site visit(s) conducted on: *Date(s)*.

Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s)*.

XX Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*

XX USDA NRCS Soil Survey: *Waters of the U.S. Report, Custom Soil Resources Report, Attachment Pages 18-22 of 127.*

XX USFWS NWI maps: *Waters of the U.S. Report, Attachment Page 7 of 127, “National Wetland Inventory Map”.*

XX USGS topographic maps: *1:24,000, IN- Rensselaer, 1962, 2010.*

Other data sources used to aid in this determination:

| Data Source (select) | Name and/or date and other relevant information |
|----------------------------|--------------------------------------------------------------------------------------------|
| USGS Sources | USGS National Hydrography Dataset, Accessed December 2020. |
| USDA Sources | N/A. |
| NOAA Sources | N/A. |
| USACE Sources | U.S. Army Corps of Engineers, Detroit District Regulatory Viewer, Accessed December 2020 |
| State/Local/Tribal Sources | Beacon GIS Jasper County, Accessed December 2020 |
| Other Sources | Google Earth, Accessed December 2020; NAIP Aerial Imagery, July 11, 2018, and May 07, 2012 |

B. Typical year assessment(s):

The Antecedent Precipitation Tool (APT) was run for July 11, 2018, and May 07, 2012, to correspond with two aerial images used to determine if Carpenter Creek meets the definition of an (a)(2) water. The typical year analysis used the rule recommended periodic range of the three, 30-day periods preceding the observation date. APT results for the July 11, 2018, NAIP aerial image indicate the image was taken during a period that is considered the Dry Season per the WebWIMP. Precipitation was considered “Normal” when compared to the 30-year average. Water was observed within Carpenter Creek in the aerial image. APT results of the May 07, 2012, NAIP aerial image indicate the image was taken during a period that is considered the Wet Season per the WebWIMP. Precipitation

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was considered “Drier than Normal” when compared with the 30-year average. The Palmer Drought Severity Index (PDSI), indicate that “Moderate Drought” conditions were present at the time the May 07, 2012, NAIP image was taken. Water was observed within Carpenter Creek in the aerial image.

C. Additional comments to support AJD:

Unnamed Tributaries (UNT's) 1, 2, 3, 4, and 5, only flow in response to precipitation events. The U.S. Fish and Wildlife Service National Wetland Inventory (NWI), the Natural Resources Conservation Service (NRCS) Web Soil Survey, nor the 1962 and 2010 U.S. Geological Survey (USGS) Topographic maps indicate a stream feature in the vicinity of the UNT's labeled 1, 2, 3, 4, and 5. Water was not observed in any of the relevant aerial imagery reviewed and county drainage maps do not provide evidence that UNT's 1,2,3,4, or 5 provide for more than ephemeral flow.

The geographic location of Wetlands A, B, C, D, and E, in relation to the nearest tributary, do not meet the definition of an adjacent wetland. This is based upon review of the applicable USGS Topographic maps, aerial imagery, county drainage maps, and information contained in the Waters of the U.S. Report submitted by the applicant. Wetlands A, B, C, D, and E, do not directly abut an (a)(1) – (a)(3) water, and are not physically separated by a natural feature from an (a)(1) – (a)(3) water, nor are they physically separated by an artificial structure, dike, barrier, etc., that has a direct hydrologic connection to a (a)(1) – (a)(3) water in a typical year. Wetlands A and B lie within the Federal Emergency Management Agency (FEMA) mapped AE Flood Zone (1% chance of annual flooding) of Carpenter Creek, however no evidence was found in the relevant resource material that indicates that Wetlands A, B, C, D or E, are inundated by floodwater in a typical year from Carpenter Creek ((a)2 water).

Carpenter Creek is a perennial stream that exhibits an Ordinary High Water Mark (OHWM) and a defined bed and bank. The stream is mapped on the USGS National Hydrography Dataset (NHD) as a perennial stream/river. The U.S. Fish and Wildlife Survey's NWI maps Carpenter Creek as an R2 Lower Perennial stream feature and the NRCS Web Soil Survey for Jasper County maps the resource as a stream feature. Water is observed in the channel in satellite aerial imagery sourced from Beacon GIS Jasper County and Google Earth (dated 1998, 2005, 2015, 2018) along with National Agriculture Imagery Program (NAIP) aerial imagery dated July 11, 2018, and May 7, 2012, depicting the stream exhibiting perennial flow. Per the APT, the May 7, 2012, NAIP aerial image was taken during a drier than normal period and in moderate drought conditions. However, water can be observed in Carpenter Creek. The presence of observed water under these conditions, provides further evidence to support that flow is perennial. Review of the 1962 USGS Topographic map and the 2010 USGS Topographic map, both depict Carpenter Creek as a blue line stream feature, which indicates perennial and/or intermittent flow. Carpenter Creek is a perennial stream that contributes flow to the Iroquois River, a TNW ((a)(1) water).

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