



**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): 9/18/2020
 ORM Number: LRE-2017-00371-102-J20
 Associated JDs: LRE-2017-00371-102-J17
 Review Area Location¹: State/Territory: Indiana City: Fort Wayne County/Parish/Borough: Allen
 Center Coordinates of Review Area: Latitude 41.086817 Longitude -85.299437

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
N/A.	N/A.	N/A.	N/A.

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Section I, excluded water (b) (1)	0.59	acre(s)	(b)(1) Non-adjacent wetland.	Section I is considered a physically remote isolated wetland which does not allow for a direct hydrologic surface connection or inundation by an (a)1-(a)(3) water (i.e., Section I does not abut, is separated by more than a natural berm from, is not inundated by flooding in a typical year from, and does not have a direct hydrologic surface connection in a typical year to a jurisdictional non-wetland water) and therefore is not an adjacent wetland under the final rule (33 CFR Part 328). Therefore, Section I meets the definition of an exclusion per 33 CFR 328.3 (b) (1).
Section II, excluded water (b) (1)	0.25	acre(s)	(b)(1) Non-adjacent wetland.	Section II is considered a physically remote isolated wetland which does not allow for a direct hydrologic surface connection or inundation by an (a)1-(a)(3) water (i.e., Section I does not abut, is separated by more than a natural berm from, is not inundated by flooding in a typical year from, and does not have a direct hydrologic surface connection in a typical year to a jurisdictional non-wetland water) and therefore is not an adjacent wetland under the final rule (33 CFR Part 328). Therefore, Section I meets the definition of an exclusion per 33 CFR 328.3 (b) (1).
Section III, excluded water (b) (1)	0.20	acre(s)	(b)(1) Non-adjacent wetland.	Section III is considered a physically remote isolated wetland which does not allow for a direct hydrologic surface connection or inundation by an (a)1-(a)(3) water (i.e., Section I does not abut, is separated by more than a natural berm from, is not inundated by flooding in a typical year from, and does not have a direct hydrologic surface connection in a typical year to a jurisdictional non-wetland water) and therefore is not an adjacent wetland under the final rule (33 CFR Part 328). Therefore, Section I meets the definition of an exclusion per 33 CFR 328.3 (b) (1).
Section IV, excluded water (b) (1)	0.03	acre(s)	(b)(1) Non-adjacent wetland.	Section IV is considered a physically remote isolated wetland which does not allow for a direct hydrologic surface connection or inundation by

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
			an (a)1-(a)(3) water (i.e., Section I does not abut, is separated by more than a natural berm from, is not inundated by flooding in a typical year from, and does not have a direct hydrologic surface connection in a typical year to a jurisdictional non-wetland water) and therefore is not an adjacent wetland under the final rule (33 CFR Part 328). Therefore, Section I meets the definition of an exclusion per 33 CFR 328.3 (b) (1).

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: [Delineation of Palmira Lakes Extended and Livingston Lakes by Earth Source Incorporated on behalf of Oakmont Development](#)
This information is sufficient for purposes of this AJD.
Rationale: [NA](#)
- Data sheets prepared by the Corps: [NA](#)
- Photographs: [Other: Delineation report provided by Earth Source Incorporated which includes site photos and aerial imagery.](#)
- Corps site visit(s) conducted on: [May 18, 2017](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [LRE-2017-00371-102-J17, Palmera site](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [NRCS Web Soil Survey](#)
- USFWS NWI maps: [USFWS online wetland mapper](#)
- USGS topographic maps: [1:24K, Arcola](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	NHD maps
USDA Sources	NRCS web soil survey
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Site visit completed on May 18, 2017, previous Corps action (Palmera site)
Other Sources	Earth Source Inc., delineations on behalf of Oakmont Development for Palmira Lakes Extended and Livingston Lakes completed on May 21, 2020
Other Sources	Digital Globe 2020 aerial imagery, and Indiana Ortho 2018 aerial image

B. Typical year assessment(s): [NA](#)

C. Additional comments to support AJD: [Earth Source Incorporated submitted two separate wetland delineation reports titled “Palmira Lake Extended” and “Livingston Lakes” which are a continuation of a](#)



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previous development titled "Palmera" located immediately west of the subject review area (Corps file number: LRE-2017-00371-102-J17). Since, both "Palmira Lake Extended" and Livingston Lakes" are an extension of the above noted file number, the project area was adjusted to include both delineation reports as one AJD. Based upon information gathered from the site visit, delineation reports and review of the applicable resource maps for the project area to include: Digital Globe Imagery dated May 1, 2020, Indiana Ortho 2018 Aerial Imagery, USGS Topo Map (Arcola quad), NRCS Web Soil Survey and USGS NHD map, it was determined that the subject review area did not contain a jurisdictional tributary within or near the project area. The closest mapped tributary was noted to be approximately 0.89 miles from the review area (Seegar Ditch) which is east of the subject wetlands. We also have record of an unmapped tributary (Noyer Open Legal Drain), which is located approximately 0.50 miles west of the subject wetland/review area. Additionally, the previous delineation performed by Earth Source Incorporated on May 1, 2017 for the Palmera site indicated the presence of one isolated wetland with no (a)(2) tributaries present. The subject combined sites "Palmira Lake Extended" and "Livingston Lakes" both abut the Palmera site to the immediate east and are located in the same watershed as the Palmera site. Further, the May 21, 2020 delineation report by Earth Source Incorporated substantiated that the subject site contains no (a)(2) waters. As noted in Section II D above, the site does contain four separate excluded features/wetlands (Sections I, II, III and IV), which did not contain a direct hydrologic surface water connection to a jurisdictional (a)(2) tributary. Wetland Sections I, II, III and IV do not meet the adjacent wetland definition and therefore were deemed to be exclude as outlined in Section II D above.