



**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): 8/14/2020  
 ORM Number: LRE-2018-01228-143-A20-2  
 Associated JDs: N/A  
 Review Area Location<sup>1</sup>: State/Territory: Indiana City: Warsaw County/Parish/Borough: Kosciusko  
 Center Coordinates of Review Area: Latitude 41.267603 Longitude -85.829237

**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.

**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.

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.

<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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**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
Hickman Ditch	475	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).	Based upon a review of applicable resource maps, Hickman Ditch appears to have been excavated out of wetland that did not meet the definition of an (a)(4) Adjacent Wetland to an (a)(1) – (a)(3) jurisdictional water. Specifically, there is a lack of evidence to support the wetlands at Hickman Ditch having met the (c)(1) definition of adjacency to Deeds Creek or the Tippecanoe River prior to ditch excavation. See Section III.C.
Wetland A	0.04	acre(s)	(b)(1) Non-adjacent wetland.	The geographic location of the wetland in relation to the closest tributary does not meet wetland adjacency criteria because the wetland does not abut, and is not physically separated by a natural feature from an (a)(1) - (a)(3) water, nor is it physically separated from an (a)(1) - (a)(3) water by an artificial structure, dike, or other barrier with a direct hydrologic connection. The wetland is also not inundated by floodwater in a typical year from an (a)(1) - (a)(3) water. This determination is based upon on-site reviews.
Wetland B	0.004	acre(s)	(b)(1) Non-adjacent wetland.	The geographic location of the wetland in relation to the closest tributary does not meet wetland adjacency criteria because the wetland does not abut, and is not physically separated by a natural barrier from an (a)(1) - (a)(3) water, nor is it physically separated from an (a)(1) - (a)(3) water by an artificial structure, dike, or other barrier with a direct hydrologic connection. The wetland is also not inundated by floodwater in a typical year from an (a)(1) - (a)(3) water. This determination is based upon on-site reviews.
Wetland C – North	0.05	acre(s)	(b)(1) Non-adjacent wetland.	The geographic location of the wetland in relation to the closest tributary does not meet wetland adjacency criteria because the wetland does not abut, and is not physically separated by a natural feature from an (a)(1) - (a)(3) water, nor is it physically separated from an (a)(1) - (a)(3) water by an artificial structure, dike, or other barrier with a direct hydrologic connection. The wetland is also not inundated by floodwater

<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
			in a typical year from an (a)(1) - (a)(3) water. This determination is based upon on-site reviews.
Wetland C - South	0.013	acre(s)	(b)(1) Non-adjacent wetland. The geographic location of the wetland in relation to the closest tributary does not meet wetland adjacency criteria because the wetland does not abut, and is not physically separated by a natural feature from an (a)(1) - (a)(3) water, nor is it physically separated from an (a)(1) - (a)(3) water by an artificial structure, dike, or other barrier with a direct hydrologic connection. The wetland is also not inundated by floodwater in a typical year from an (a)(1) - (a)(3) water. This determination is based upon on-site reviews.
Wetland D - North	0.27	acre(s)	(b)(1) Non-adjacent wetland. The geographic location of the wetland in relation to the closest tributary does not meet wetland adjacency criteria because the wetland does not abut, and is not physically separated by a natural feature from an (a)(1) - (a)(3) water, nor is it physically separated from an (a)(1) - (a)(3) water by an artificial structure, dike, or other barrier with a direct hydrologic connection. The wetland is also not inundated by floodwater in a typical year from an (a)(1) - (a)(3) water. This determination is based upon on-site reviews.
Wetland D - South	0.16	acre(s)	(b)(1) Non-adjacent wetland. The geographic location of the wetland in relation to the closest tributary does not meet wetland adjacency criteria because the wetland does not abut, and is not physically separated by a natural feature from an (a)(1) - (a)(3) water, nor is it physically separated from an (a)(1) - (a)(3) water by an artificial structure, dike, or other barrier with a direct hydrologic connection. The wetland is also not inundated by floodwater in a typical year from an (a)(1) - (a)(3) water. This determination is based upon on-site reviews.

**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 Report: Hurt Downs Properties, for Joel Downs of Hurt Downs LLC, prepared by Three Rivers Wetland Consulting LLC, dated June 2, 2020](#)

This information is sufficient for purposes of this AJD.



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Rationale: [N/A](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial and Other: Beacon: 2011, 2016, and 2019. Indiana Historical Aerial Photo Index: 1939, 1951, 1957, 1965, and 1973.](#)
- Corps site visit(s) conducted on: [December 3, 2018 and January 23, 2020](#)
- 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: [Bureau of Soils and Purdue University, Kosciusko County, Indiana 1922. Web Soil Survey, Hydric Rating by Map Unit – Kosciusko County, Indiana. Accessed July 22, 2020.](#)
- USFWS NWI maps: [Online Wetlands Mapper, accessed July 22, 2020.](#)
- USGS topographic maps: [Detroit District Regulatory Viewer](#)

**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="#">National Hydrography Dataset (NHD)</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="#">Kosciusko County Ditches and Drains Map, Beacon</a>
<a href="#">Other Sources</a>	<a href="#">Library of Congress, 1879 and 1914 Plat Maps for Plain Township and Wayne Township, Kosciusko County, Indiana</a>

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**B. Typical year assessment(s):** [N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.](#)

**C. Additional comments to support AJD:** [The review area has been subjected to fill activities that occurred over 5 years ago \(prior to 2015\). Therefore, large portions of the review area that are currently mapped as wetland on the FWS NWI map and/or are mapped as hydric soils on the USDA NRCS soil survey no longer exhibit wetland characteristics and do not meet wetland criteria. Wetland C and Wetland D are likely remnants of the historical wetland. Wetland A and Wetland B are also possible remnants of the former wetland and/or are depressions that have resulted from equipment movement and previous earthwork activities. Hickman Ditch, a county regulated drain, appears as “Goddard Ditch” in the 1914 plat map of Plain Township. No ditch or other waterbody was depicted in the 1879 plat map at that location. The 1922 soil map and current web soil survey depict non-hydric soils between the subject wetlands at Hickman Ditch and both Deeds Creek and the Tippecanoe River, suggesting that the wetlands were not historically adjacent to either tributary. Similarly, the FWS NWI does not depict the mapped wetlands as contiguous with either Deeds Creek or the Tippecanoe River; Hickman Ditch \(excluded feature\) appears to be the sole surface hydrologic connection to those downstream waters.](#)