



**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): 5/18/2021
 ORM Number: LRE-2010-00799-120-J21
 Associated JDs: LRE-2010-00799-120-J19
 Review Area Location¹: State/Territory: Indiana City: Middlebury County/Parish/Borough: Elkhart County
 Center Coordinates of Review Area: Latitude 41.6681 Longitude -85.7318

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
Feature A, (b)(10)	0.05 acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Active storm water control feature (detention/retention area)
Feature B, (b)(10)	0.57 acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Active storm water control feature (detention/retention area)

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 report provided by HNTB on behalf of INDOT by HNTB dated April 13, 2021](#)

This information is sufficient for purposes of this AJD.

Rationale: [NA](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial: Indiana Map, https://indianamap.org](#) dates: 1998, 2003, 2005
- Corps site visit(s) conducted on: [April 16, 2021](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [2010-00799-120-J18](#)
- 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 Bristol Indiana Quad](#)

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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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	Web Soil Survey
NOAA Sources	N/A.
USACE Sources	Detroit Dist. Regulatory Viewers
State/Local/Tribal Sources	N/A.
Other Sources	INDOT Waters Report submitted by HNTB, Indiana Map aerial imagery 1998, 2003 and 2005

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

C. Additional comments to support AJD: Based upon review of the delineation report provided by HNTB and a site visit completed on April 16, 2021 the subject features were determined to be storm water facilities (active storm water detention/ retention basins). Indiana Map aerial imagery from 1998 and 2005 indicated that Features A and B did not exist prior to the construction of the current subdivision and commercial retail outlets. These residential and commercial developments were present after 1998 but before 2003. Feature A does not appear until 2005 based upon review of aerial imagery. Further, the subject features were not constructed out of hydric soil units based upon the USDA web soil survey and information detailed in the report (BtXB-Bristol loamy sand). Features A and B also appeared to be the subject of active maintenance with apparent riprap stabilization of pipe and curbside inlets to facilitate storm water flow into the basins.