



**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): 8/4/2021

ORM Number: LRE-2013-00751-102-J21

Associated JDs: LRE-2013-00751-102-J13

Review Area Location¹: State/Territory: Indiana City: Ft. Wayne County/Parish/Borough: Allen County

Center Coordinates of Review Area: Latitude 41.196660 N. Longitude -85.090219 W.

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: NA
- 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.	NA

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Ely Run, Section I	3,108 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Ely Run (Section I) is described in the delineation report as a perennial stream and County Legal Drain which flows along the north and east property line of the development. The stream is mapped as a perennial stream as noted in the United States Geological Survey’s (USGS) National Hydrography Dataset (NHD) map (see additional comments below for supporting documentation).

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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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.	

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
Wetland Section II	0.04 acre(s)	(b)(1) Non-adjacent wetland.	Wetland Section II as described in the delineation report is an emergent wetland approximately 0.04 acres in size (onsite). Based upon the site inspection and review of applicable USGS topographic maps, aerial imagery and County drainage maps, Section II does not meet wetland adjacency criteria (see additional comments below for supporting documentation).	

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 Earth Source Incorporated on behalf of Jeff Thomas of Oakmont Development dated April 16, 2021.](#)

This information is sufficient for purposes of this AJD.

Rationale: [NA](#)

Data sheets prepared by the Corps: [NA](#)

Photographs: [Other: Corps site inspection photos taken on May 21, 2021](#)

Corps site visit(s) conducted on: [May 21, 2021](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [2013-00751-102-J13, November 13, 2013](#)

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 Quad, Cedarville](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	NHD maps, Topographic map: 1:24K Cedarville
USDA Sources	NRCS, Web Soil Survey
NOAA Sources	N/A.

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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Data Source (select)	Name and/or date and other relevant information
Other USACE data (specify)	USACE Detroit District Regulatory Viewer: USA NAIP 2014 image and 2018 Indiana Ortho (west) image, 3DEPElevation Hillshade layer
State/Local/Tribal Sources	IDNR, Indiana Floodplain information portal and Division of Water online research center, Hoggatt Drainage Area Map
Other Sources	Allen County imap viewer 2012, 2018 images, Allen County Legal Drains USFWS, National Wetland Inventory, Earth Source Inc. Antecedent Precipitation Tool (ATP) output

B. Typical year assessment(s): The APT produces precipitation data from NOAA's Daily Global Historical Climatology Network. The APT evaluates normal precipitation conditions based on the three 30-day periods preceding the observation date. For each period, a weighted condition value is assigned by determining whether the 30-day precipitation total falls within, above, or below the 70th and 30th percentiles for totals from the same date range over the preceding 30 years. The APT then assists with a determination of "normal," "wetter than normal," or "drier than normal" based on the condition value sum. The APT also displays results generated via the Palmer Drought Severity Index (PDSI) and the University of Delaware WebWIMP.

The ATP analysis indicated that precipitation was within a normal range, but climatic conditions showed a mild to moderate drought period during the time of the delineation and Corps inspection. Water was flowing in Ely Run (Section I) at the time of the site inspection on May 21, 2021 and as noted by photo documentation. The presence of water within the stream channel during a mild to moderate drought substantiates that Ely Run (Section I) has at least intermittent flow.

C. Additional comments to support AJD: Ely Run (Section I) was flowing during the time of the site inspection completed on May 21, 2021 and as noted by photo documentation. The stream was observed to contain a defined Ordinary High Water Mark with apparent riffle, run, pool complexes and resident minnow populations, which substantiates the permanence of flow within the channel. Additionally, the presence of water within the stream during a mild to moderate drought, further indicates that Ely Run (Section I) has persistent flow during dry periods. The stream is also mapped as a solid blue line by both the USGS Topographic map and National Hydrography Dataset (NHD), which provides documentation that the stream is perennial in nature. Aerial photos show consistent surface water in the channel also indicating perennial flow. Ely Run contributes surface water flow to the St. Joseph River which flows to the Maumee River, a traditional navigable water of the United States (TNW), meeting the definition of a tributary per 33 CFR Part 328.

Wetland Section II is located at the edge of the southern property line and extends off-site to the south. Only a small portion of Section II is located within the subject property (.04 acres onsite). The wetland was noted to be depressional and geographically separated from nearby wetlands located approximately 350 feet to the southwest on the neighboring property. The area between the wetlands was dominated by upland vegetation which included a shagbark hickory. The nearest mapped (a)(2) tributary (Ely Run) is located approximately 900 feet northeast of the subject wetland. Further, no surface hydrologic connection was observed between Wetland Section II and an (a)(1)-(a)(3) water during the site inspection. The wetland does not abut an (a)(1)-(a)(3) water and is not inundated by flooding from an (a)(1)-(a)(3) water. In summary, Wetland Section II does not meet the definition of adjacent wetlands per 33 CFR 328.3 section (C)(1)(i)(ii)(iii) or (iv), and is therefore excluded per 33 CFR 328.3 (b)(1) as a non-adjacent wetland.