



**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): 3/8/2021

ORM Number: LRE-2021-00235-192

Associated JDs: N/A

Review Area Location¹: State/Territory: Indiana City: South Whitley County/Parish/Borough: Whitley

Center Coordinates of Review Area: Latitude 41.045127 Longitude -85.574644

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Pond	0.3	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	The farm pond was excavated in an agricultural field that was in corn and/or soybean production prior to its excavation. The farm pond does not contribute surface water to a downstream TNW. The farm pond is not an impoundment of a jurisdictional water.

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: [USDA map "All WC Determinations," prepared by Scot Haley, produced on July 7, 2020. Personal communication with property owner, Tracy Kuckuck on March 1, 2021.](#)

This information is and is not sufficient for purposes of this AJD.

Rationale: [Additional applicable resource maps and aerial photo review required.](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

Photographs: [Aerial: The Indiana Geological and Water Survey \(IGWS\) "Indiana Historical Aerial Photo Index" \(IHAPI\) aerials dated 1939, 1951, 1957, 1964, and 1972. Google Earth Images dated 4/1998, 9/2003, 3/2005, 7/2006, 7/2007, 6/2008, 6/2010, 5/2011, 8/2013, 3/2014, 4/2016, 10/2016, 10/2017, 7/2018, and 3/2020.](#)

Corps site visit(s) conducted on: [Date\(s\).](#)

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: [Hydric Rating by Map Unit – Whitley County, Indiana. Web Soil Survey.](#)

USFWS NWI maps: [USFWS Online Wetlands Mapper](#)

USGS topographic maps: [24K, South Whitley East Indiana Quad.](#)

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	N/A.
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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Data Source (select)	Name and/or date and other relevant information
USACE Sources	ORM, Detroit District Regulatory Viewer (Portal)
State/Local/Tribal Sources	Whitley County 2' Contour and Regulated Drain Maps (Beacon)
Other Sources	FEMA/FIRM maps

B. Typical year assessment(s): [N/A](#)

C. Additional comments to support AJD: According to the property owner, the pond was excavated in the mid-1970s and the area of the pond was in agricultural production prior to its excavation. There is no known tile, pipe, pump, culvert, or other outlet from the pond. The pond is located over 300' away from the closest waterbody, Gable Drain. The property owner has not observed surface water flow between the pond and Gable Drain. Based on Whitley County 2' contour and drain maps, there is a rise in topography between the subject pond and Gable Drain. The pond is not located within a FEMA/FIRM mapped flood hazard zone. Based on a review of available aerial photos and communications with the property owner, the farm pond was not excavated out of a jurisdictional water, nor is it an impoundment of a jurisdictional water. The farm pond does not contribute surface water to a downstream TNW. Therefore, the farm pond is an excluded water and is not a water of the United States.