



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): August 3, 2021

ORM Number: LRE-2021-00504-176-A21

Associated JDs: N/A

Review Area Location¹:

State/Territory: IN City: Hudson County/Parish/Borough: Steuben County

Center Coordinates of Review Area: Latitude 41.584107 Longitude -85.131316

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 independent 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.

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Penick, Wetland	Approximately 0.1 acres	(b)(1) Non-adjacent wetland	Depressional wetland. No hydrological connection to a (a)(1) – (a)(3) water as determined during a May 20, 2021 field visit and review of resource maps. There is an agricultural tile drain located in the wetland, which appears to drain water from the wetland via an underground pipe (subsurface drain) across the property and outlets onto the property (outside of the review area). This subsurface drain would meet the definition of a (b)(2) exclusion, Groundwater. See Section III.C. below for additional details.

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: *Title(s) and date(s)*.
This information (*is/is not/is and is not*) sufficient for purposes of this AJD.
Rationale: *N/A or describe rationale for insufficiency (including partial insufficiency)*.

Data sheets prepared by the Corps: *May 20, 2021*.

Photographs: *Corps Site Inspection May 20, 2021*.

Corps Site visit(s) conducted on: *May 20, 2021*.

___ 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: *Web Soil Survey*.

USFWS NWI maps: *Online Wetlands Mapper*.

USGS topographic maps: *Stroh – Indiana; 1:24K*

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.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Beacon GIS map, Steuben County, Aerials 2009 & 2019

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

C. Additional comments to support AJD: The geographic location of the identified wetland in relation to the closest tributary does not meet wetland adjacency criteria since the wetland does not abut an

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(a)(1) – (a)(3) water and is not physically separated by a natural feature from an (a)(1) – (a)(3) water. The identified wetland is also not physically separated from an (a)(1) – (a)(3) water by an artificial structure, dike barrier, etc..., this is based on review of resource maps and a May 20, 2021 site visit. The identified wetland is not inundated by floodwater from an (a)(1) – (a)(3) water and is not within a mapped floodplain. The closest tributary, Mud Creek, is located approximately 0.5-mile south from the identified wetland.

- D. This wetland has been determined to be an excluded, non-jurisdictional water as described above.

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