



**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): 7/16/2021
 ORM Number: LRE-2021-00562-102
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Indiana City: Cedarville County/Parish/Borough: Allen
 Center Coordinates of Review Area: Latitude 41.246427 Longitude -85.013281

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
- 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
Amstutz Drain	1466 on-site	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
Swartz-Carnahan Drain	826 on-site	linear feet	(a)(2) Intermittent tributary contributes

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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Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
		surface water flow directly or indirectly to an (a)(1) water in a typical year.	within the review. See Section III.C. for additional information.

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
Tullymore Run Detention Pond #1	0.50	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).	Per a review of the aerials of the site, the pond was excavated between 2020 and 2018 when the residential development started construction. Review of applicable resource maps does not indicate that the pond is an impoundment of a jurisdictional water as no tributaries were observed within the vicinity of Tullymore Run Detention Pond #1. Also the historical aerials do not indicate potential jurisdictional waters/wetlands where the ponds are located.
Tullymore Run Detention Pond #2/Cedar Creek Golf Course Pond #1	0.77	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	Per a review of the aerials of the site, the pond was excavated between 1957 and 1964 when the golf course was constructed and reshaped when the residential development started in 2018. Review of applicable resource maps do not indicate that the pond is an impoundment of a jurisdictional water as no tributaries were observed within the vicinity of Tullymore Run Detention Pond #2/Cedar Creek Golf Course Pond #1. Also the historical aerials do not indicate potential jurisdictional waters/wetlands where the ponds are located

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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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
			water that meets (c)(6).	
Tullymore Run Detention Pond #3/Cedar Creek Golf Course Pond #2	0.73	acres	(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)	Per a review of the aerials of the site, the pond was excavated between 1957 and 1964 when the golf course was constructed and reshaped when the residential development started in 2018. Review of applicable resource maps do not indicate that the pond is an impoundment of a jurisdictional water as no tributaries were observed within the vicinity of Tullymore Run Detention Pond #3/Cedar Creek Golf Course Pond #2. Also the historical aerials do not indicate potential jurisdictional waters/wetlands where the ponds are located
Tullymore Run Detention Pond #4	2.95	acres	(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)	Per a review of the aerials of the site, the pond was excavated between 2020 and 2018 when the residential development started construction. Review of applicable resource maps do not indicate that the pond is an impoundment of a jurisdictional water as no tributaries were observed within the vicinity of Tullymore Run Detention Pond #4. Also the historical aerials do not indicate potential jurisdictional waters/wetlands where the ponds are located



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Tullymore Run Detention Pond #5	0.32	acres	(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)	Per a review of the aerials of the site, the pond was excavated between 2020 and 2018 when the residential development started construction. Review of applicable resource maps does not indicate that the pond is an impoundment of a jurisdictional water as no tributaries were observed within the vicinity of Tullymore Run Detention Pond #5. Also the historical aerials do not indicate potential jurisdictional waters/wetlands where the ponds are located
Tullymore Run Detention Pond #6	1.58	acres	(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)	Per a review of the aerials of the site, the pond was excavated between 2020 and 2018 when the residential development started construction. Review of applicable resource maps does not indicate that the pond is an impoundment of a jurisdictional water as no tributaries were observed within the vicinity of Tullymore Run Detention Pond #6. Also the historical aerials do not indicate potential jurisdictional waters/wetlands where the ponds are located
Tullymore Run Detention Pond #7	1.30	acres	(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)	Per a review of the aerials of the site, the pond was excavated between 2020 and 2018 when the residential development started construction. Review of applicable resource maps does not indicate that the pond is an impoundment of a jurisdictional water as no tributaries were observed within the vicinity of Tullymore Run Detention Pond #7. Also the historical aerials do not indicate potential jurisdictional waters/wetlands where the ponds are located



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Cedar Creek Golf Course Pond #3	0.65 acres	(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)	Per a review of the aerials of the site, the pond was excavated between 1995 and 1999 when the residential development to the west was constructed. Review of applicable resource maps does not indicate that the pond is an impoundment of a jurisdictional water as no tributaries were observed within the vicinity of Cedar Creek Golf Course Pond #3. Also the historical aerials do not indicate potential jurisdictional waters/wetlands where the ponds are located
Existing Pond	4.34 acres	(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).	Per a review of the aerials of the site, the pond was not visible in the 1957 or 1964 aerials was beginning to be excavated 1972 aerial. Review of applicable resource maps does not indicate that the pond is an impoundment of a jurisdictional water as no tributaries were observed within the vicinity of Existing Pond. Also the historical aerials do not indicate potential jurisdictional waters/wetlands where the ponds are located

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 from Earth Source, Inc. dated 5/17/21 and their revised delineation reported dated 6/21/21.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

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

Photographs: [Aerial and Other: Site photos by consultant \(6/17/2021\); aerial photographs from 2020, 2018, 2016, 2014, 2012, 2008, 2006, 2003, 1999, 1995, 1986, 1972, 1964, and 1957.](#)

Corps site visit(s) conducted on: [June 2, 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, Allen County \(see delineation report\)](#)

USFWS NWI maps: [NWI wetlands mapper \(see delineation report\)](#)



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USGS topographic maps: 7.5 minute, Cedarville quad (see delineation report)

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	N/A.

B. Typical year assessment(s): The Antecedent Precipitation Tool (APT) pulls precipitation data from NOAA's Daily Global Historical Climatology Network. The APT evaluates normal range for 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 makes 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. Due to data availability, the APT scope was set at single point to ensure the APT had the necessary data. The typical year analysis used the rule recommended periodic range of the three, 30-day periods preceding the observation date.

The APT was run for the June 2, 2021 site visit. Water was observed flowing within Amstutz Drain during the site investigation. The APT was also run for the June 17, 2021 date for the revised delineation, in which water was observed within the Swartz-Carnahan Drain (Natural Drain). The June 2, 2021 APT results show the site visit was conducted during the dry season per the WebWIMP. The PDSI shows that a moderate drought was occurring, so climatic conditions were not normal. Precipitation was normal when compared to the 30-year average. The presence of flowing water within the stream channel of Amstutz Drain in the dry season, when precipitation is normal and climatic conditions are drier than normal due to moderate drought, substantiates that the Amstutz Drain has at least intermittent flow.

The June 17, 2021 APT results show the revised delineation was conducted during the dry season per the WebWIMP. The PDSI shows that a moderate drought was occurring, so climatic conditions were not normal. Precipitation was drier than normal when compared to the 30-year average. The presence of flowing water within the stream channel of the Swartz-Carnahan Drain in the dry season, when precipitation is drier than normal and climatic conditions are also drier than normal due to moderate drought, substantiates that the Swartz-Carnahan Drain has at least intermittent flow.

C. Additional comments to support AJD: During the June 2, 2021 field investigation, it was observed that Amstutz Drain exhibits an Ordinary High Water Mark (OHWM) and has a defined bed and bank, and had flowing water which supports at least intermittent flow. The drain is also mapped as a blue line stream on USGS Topographic maps which indicates at least intermittent flow. The U.S. Fish and Wildlife Survey's NWI maps Amstutz Drain within the review area as R4 perennial stream and the NRCS Web Soil Survey for Allen County maps the Amstutz Drain has a stream, both support that Amstutz Drain has at least intermittent flow.



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REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
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During the June 17, 2021 field investigation to revise the wetland delineation, it was observed from the site photos that the Swartz-Carnahan Drain exhibits an Ordinary High Water Mark (OHWM) and has a defined bed and bank, which supports at least intermittent flow. The U.S. Fish and Wildlife Survey's NWI maps the Swartz-Carnahan Drain as a R5 perennial stream feature and the NRCS Web Soil Survey for Allen County maps the resource as stream, both of which indicate that the Swartz-Carnahan Drains has at least intermittent flow.