



**DEPARTMENT OF THE ARMY**  
**U.S. ARMY CORPS OF ENGINEERS, LOUISVILLE DISTRICT**  
**INDIANAPOLIS REGULATORY OFFICE**  
**8902 OTIS AVENUE, SUITE S106B**  
**INDIANAPOLIS, IN 46216**

February 9, 2021

Regulatory Division  
North Branch  
ID No. LRL-2021-53-sjk

Ms. Ericka Miller  
City of Indianapolis  
Department of Public Works  
1200 South Madison Avenue  
Indianapolis, Indiana 46225

Dear Ms. Miller:

This is regarding electronic correspondence dated January 8, 2021, from HNTB requesting a jurisdictional determination on your behalf for the proposed County Line Road expansion project (Des. No. 2002553) generally located between the future I-69 interchange and State Road 135 in Marion and Johnson Counties. Location maps of the review area are enclosed.

The U.S. Army Corps of Engineers exercises regulatory authority under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344) for certain activities in "waters of the United States (U.S.)." These waters include all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce.

Based on a review of the submitted information, we have verified that Buffalo Creek and Pleasant Run Creek are considered jurisdictional "waters of the U.S." Therefore, the streams are subject to regulation under Section 404 of the Clean Water Act.

The reported UNT 1 Pleasant Run Creek, UNT 1 Buffalo Creek, UNT 2 Buffalo Creek, UNT 3 Buffalo Creek, Wetland A, RSD 1, Pond 1, and Pond 2 are excluded from regulation under Section 404 of the Clean Water Act. As such, the aforementioned resources are not considered to be "waters of the U.S." and are not regulated under Section 404 of the Clean Water Act. However, this determination does not relieve you of the responsibility to comply with applicable State law. We urge you to contact the Indiana Department of Environmental Management (IDEM), Office of Water Quality, 100 North Senate Avenue Room N1252, Indianapolis, Indiana, 46204 to determine the applicability of State law to the excluded waters mentioned above and verification of the wetland boundaries.

This letter contains an approved jurisdictional determination (JD) for your site. If you object to this JD, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this JD you must submit a completed RFA form to the Lakes and Rivers Division Office at the following address.

US Army Corps of Engineers  
Attn: Appeal Review Officer, CELRD-PD-REG  
550 Main Street, Room 10-714  
Cincinnati, OH 45202-3222

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **April 11, 2021**.

This jurisdictional determination is valid for a period of 5 years from the date of this letter unless new information warrants revision of the determination before the expiration date. It is not necessary to submit an RFA form to the Division office if you do not object to the JD in this letter.

The delineation included herein has been conducted to identify the location and extent of the aquatic resource boundaries and/or the jurisdictional status of aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This delineation and/or jurisdictional determination may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center prior to starting work.

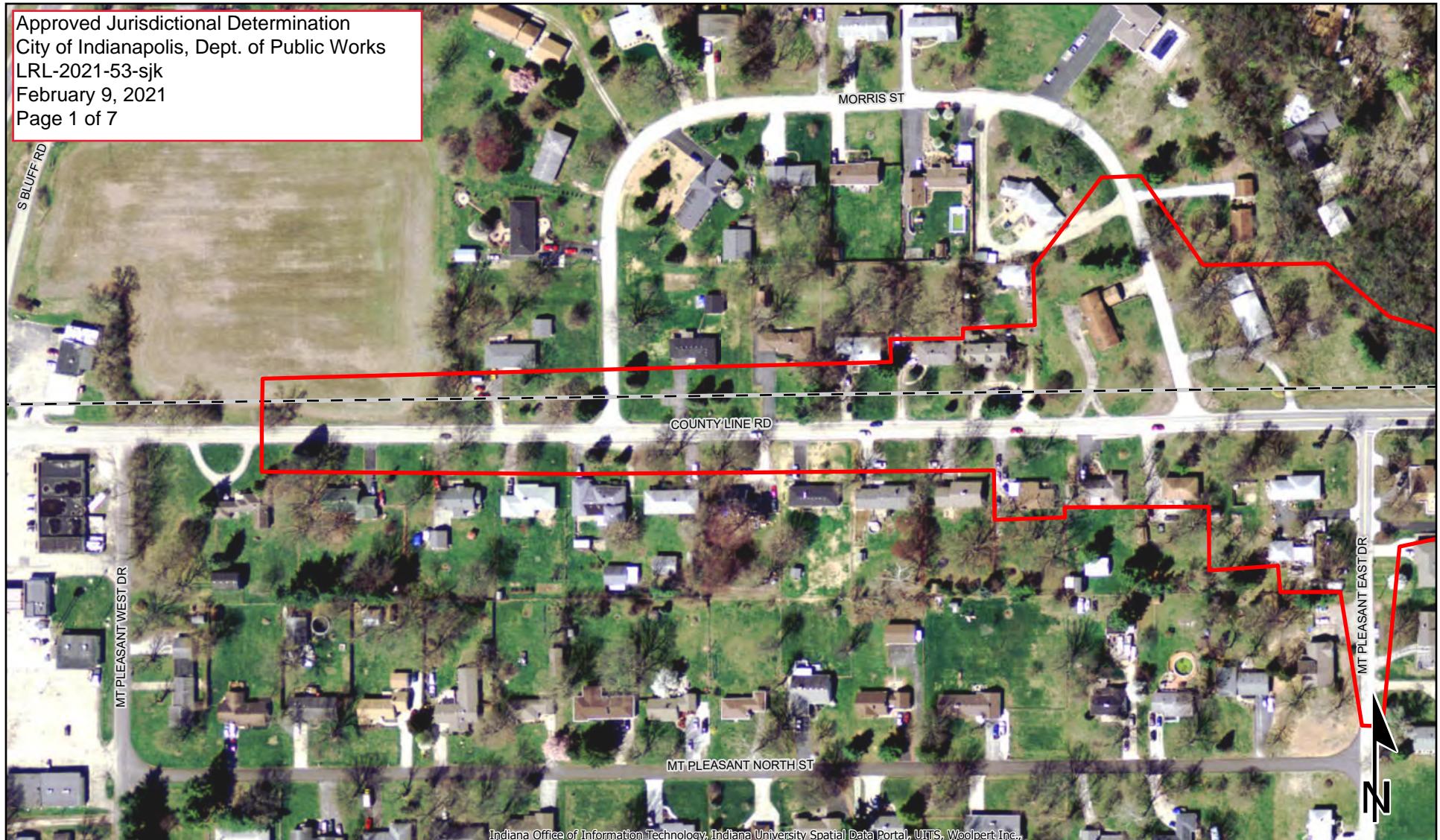
If we can be of any further assistance, please contact me by calling 317-543-9424 or emailing [Sarah.J.Keller@usace.army.mil](mailto:Sarah.J.Keller@usace.army.mil). Any correspondence on this matter should reference our Identification Number LRL-2021-53-sjk.

Sincerely,

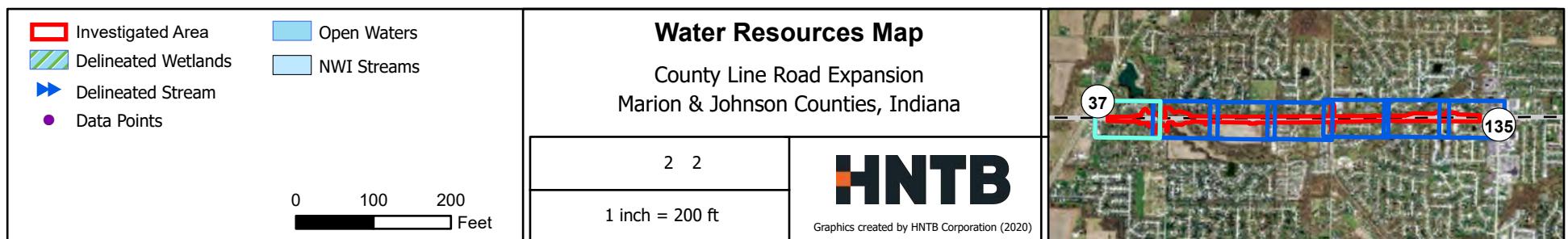
Sarah Keller  
Regulatory Specialist  
Indianapolis Regulatory Office

Enclosures  
Copy Furnished: IDEM (Farren)  
HNTB (Meador)

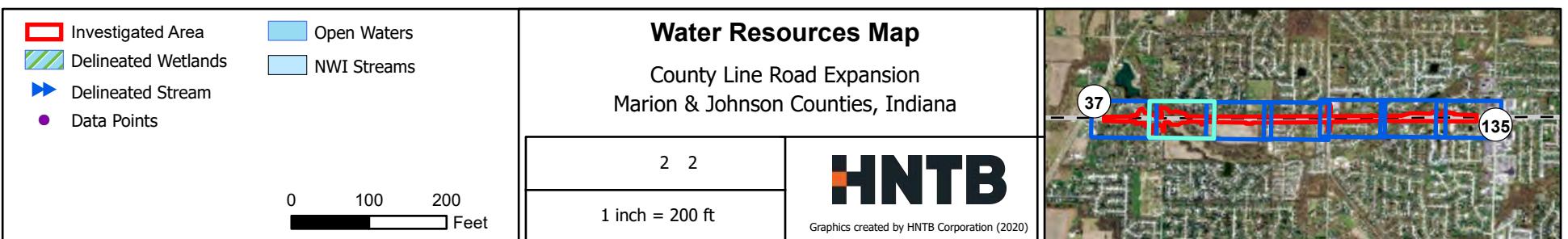
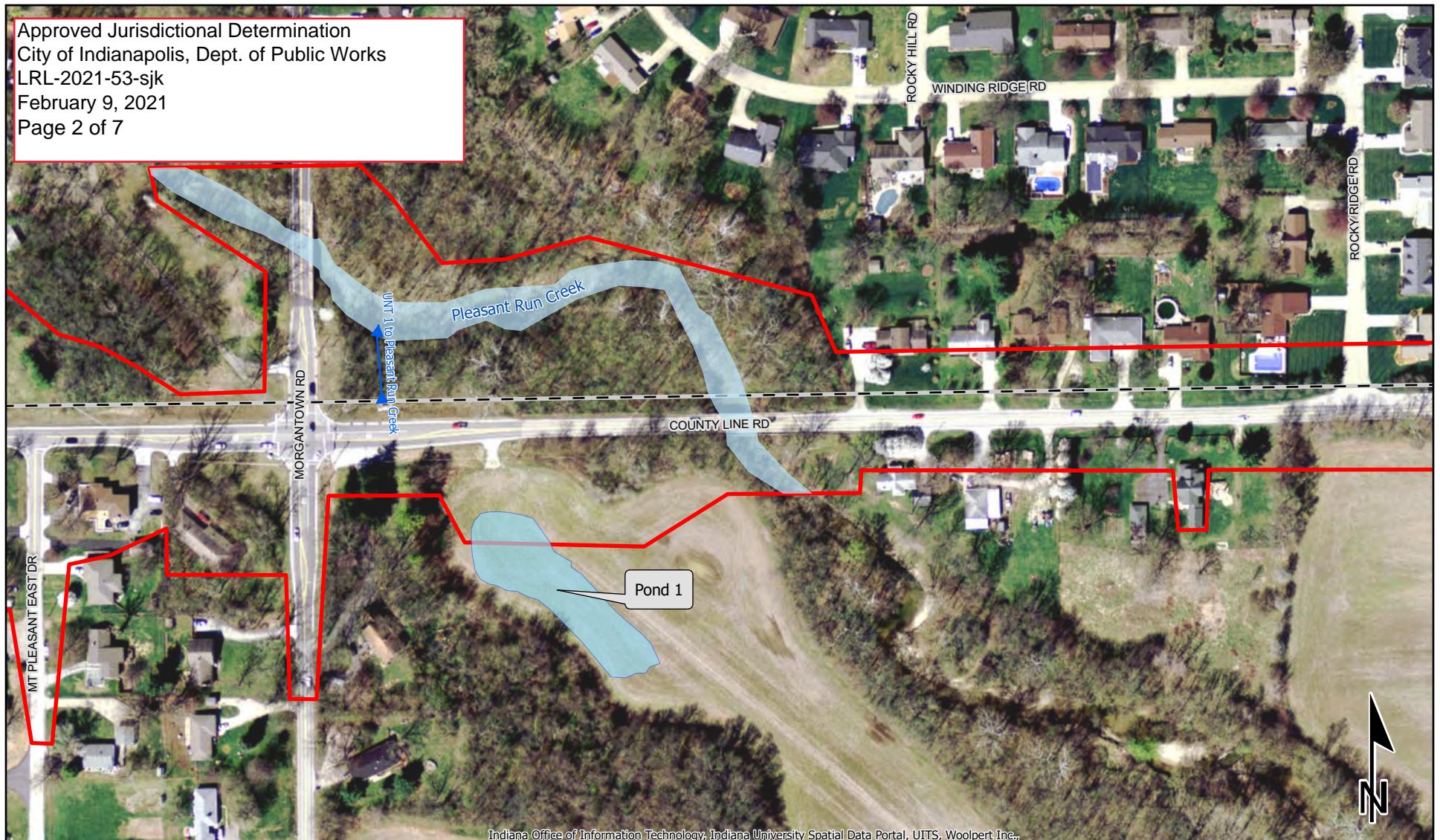
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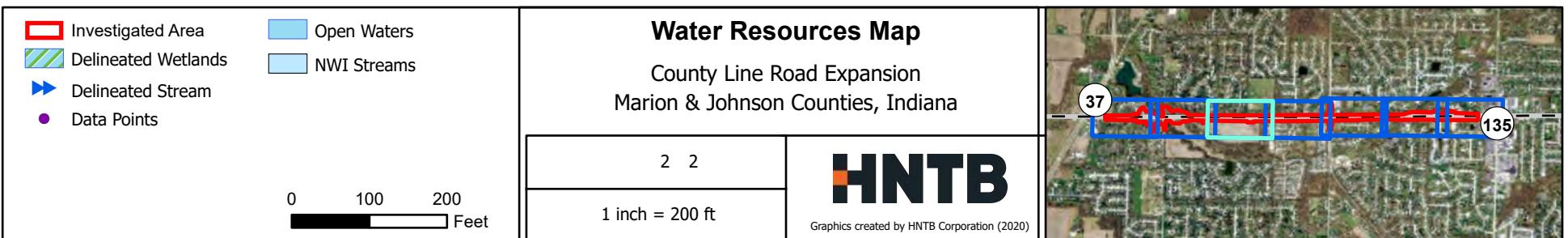
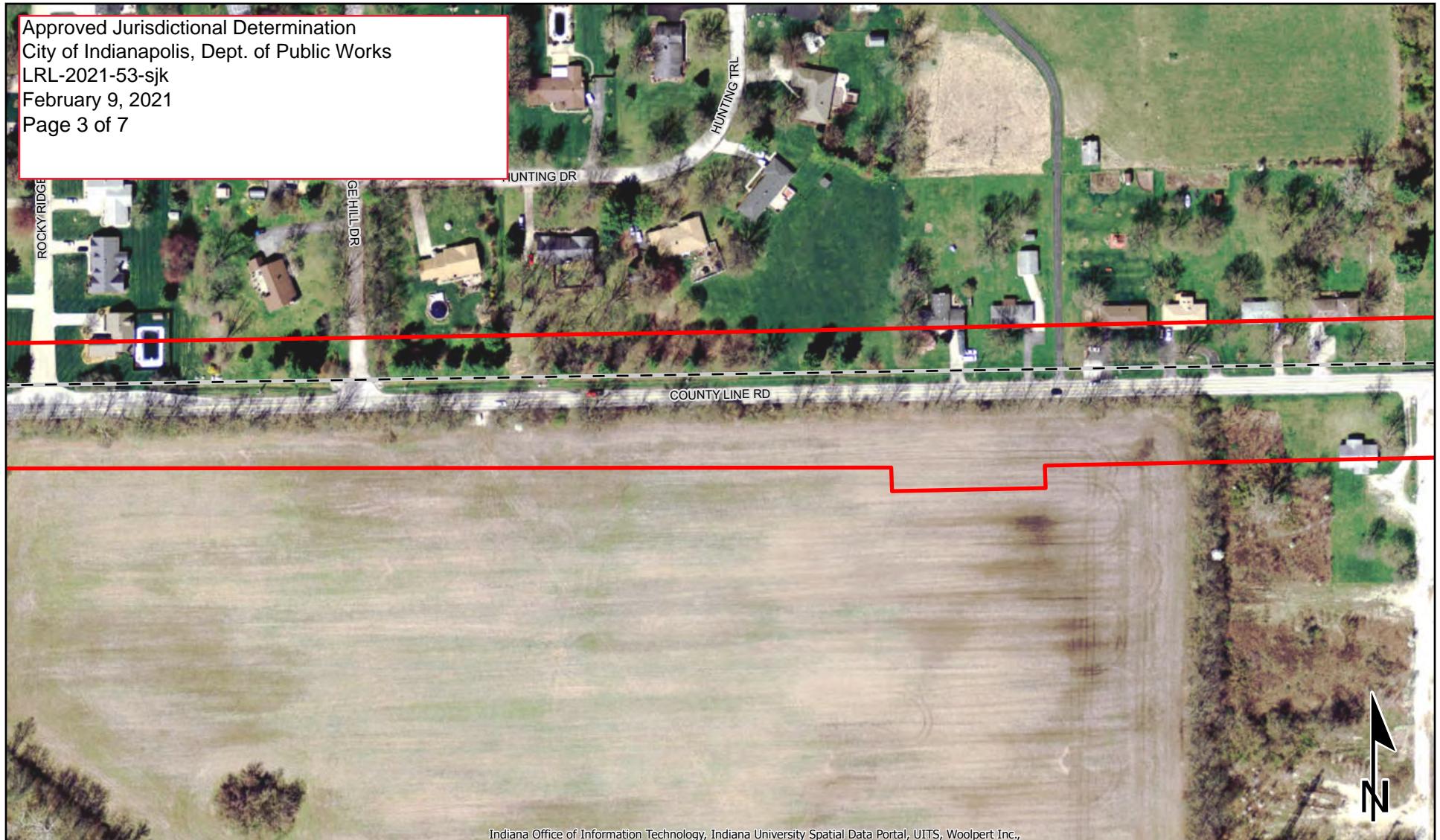
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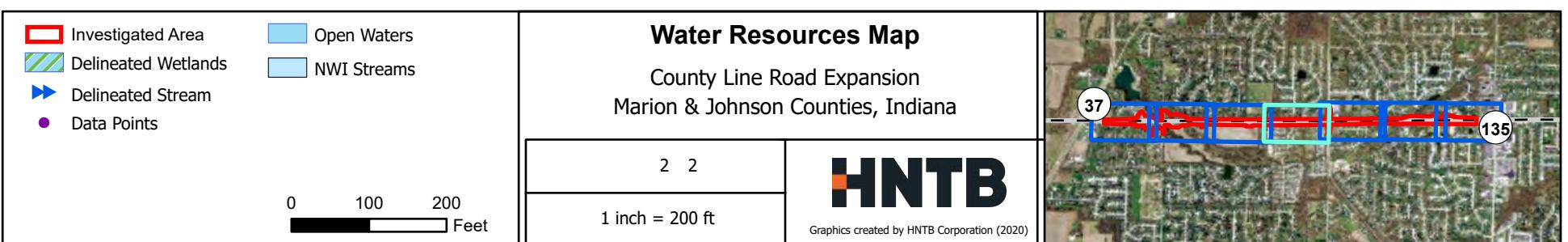
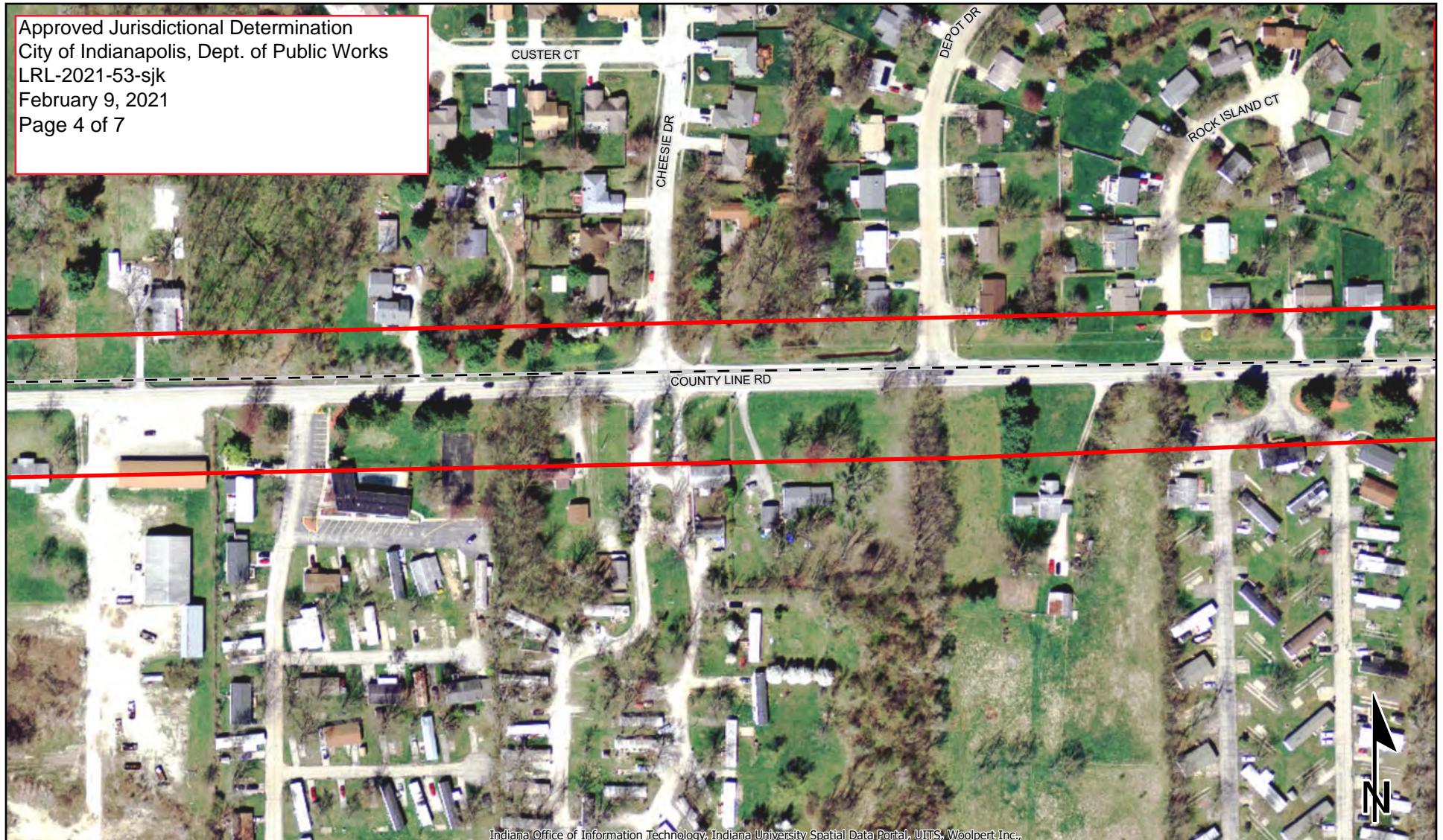
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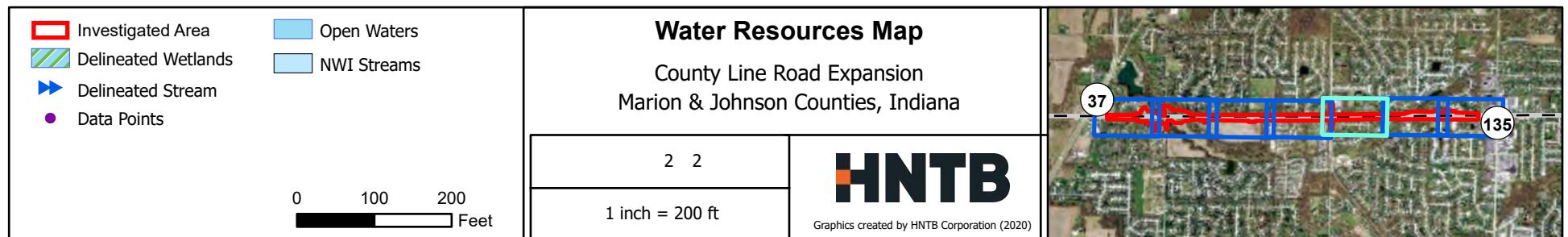


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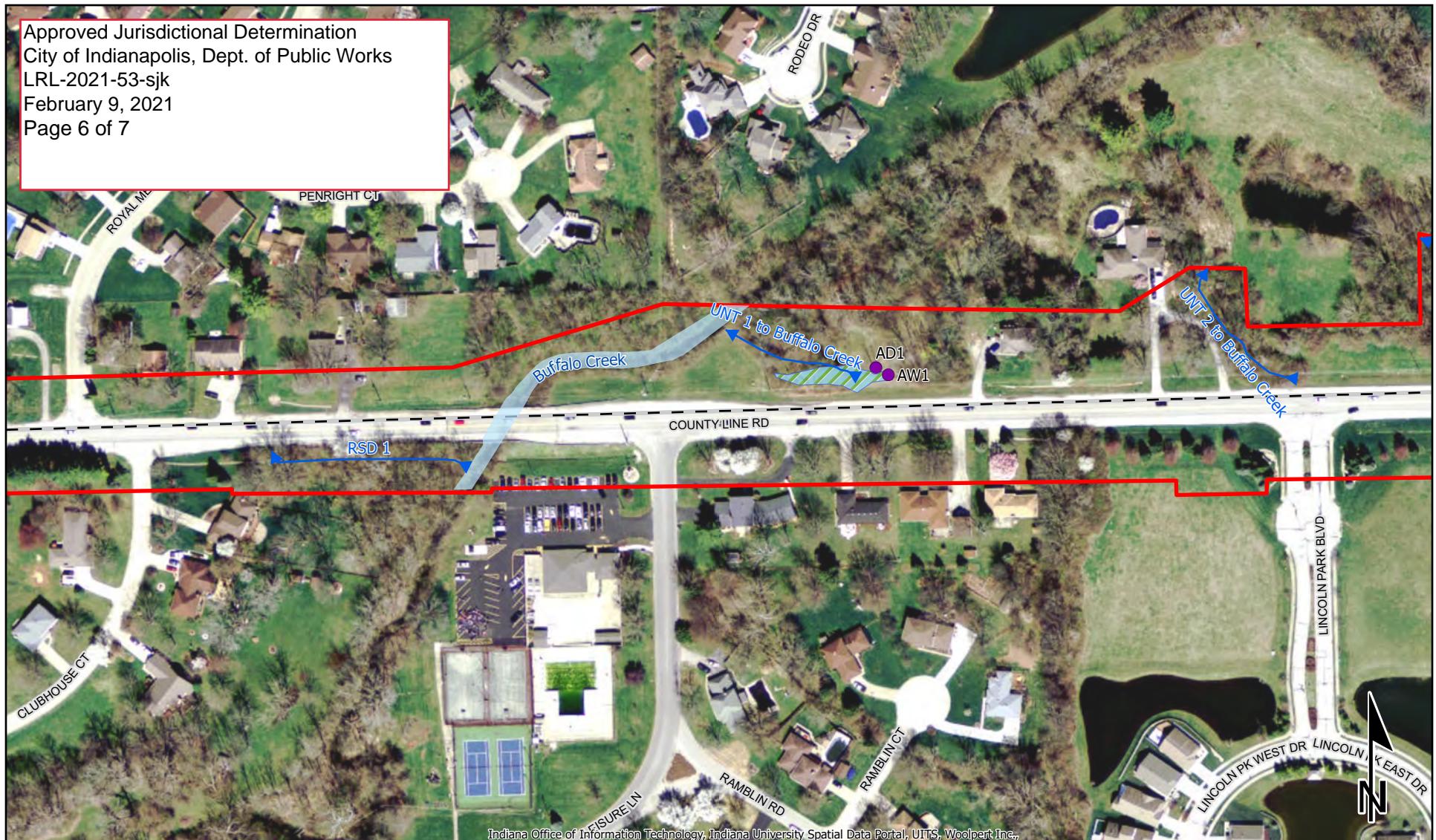


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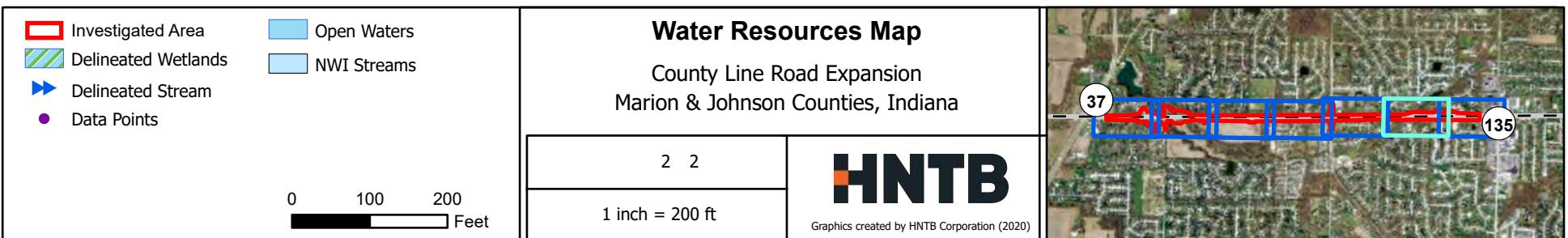




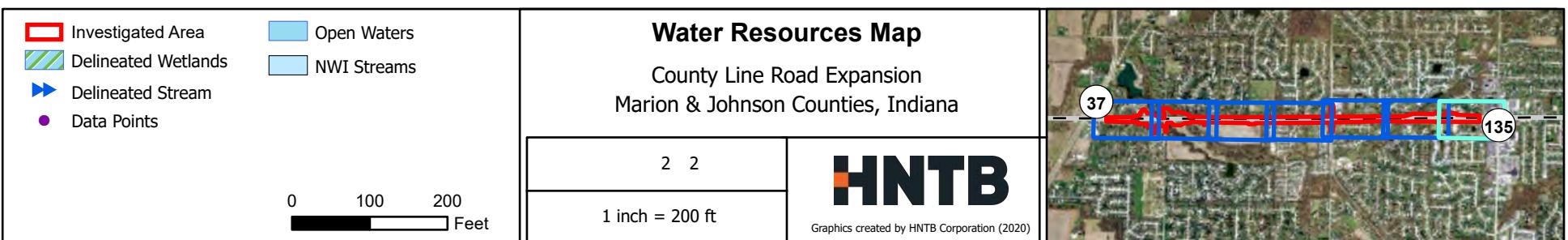
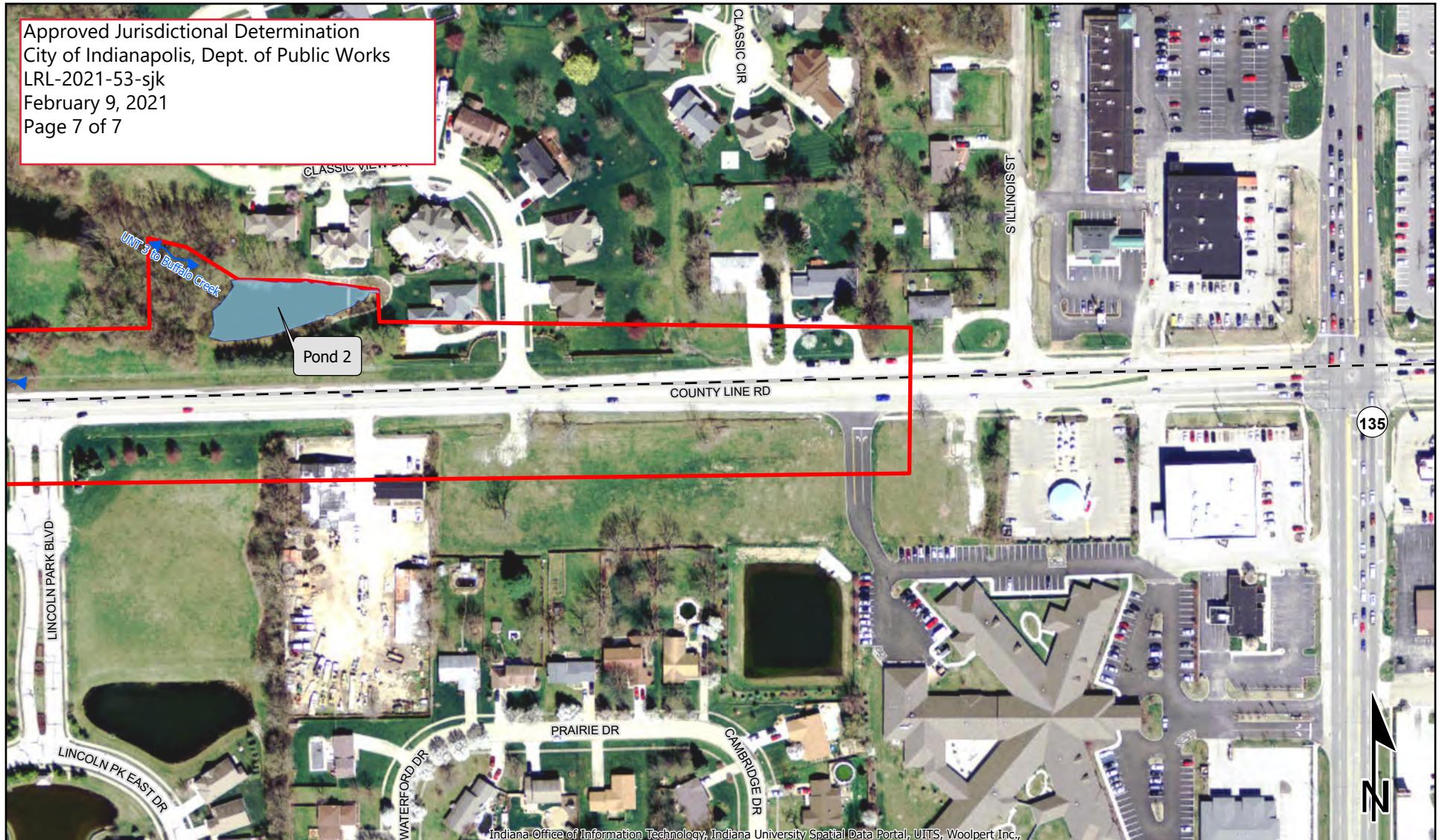
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## NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: City of Indianapolis, Dept. of Public Works	File Number: LRL-2021-53	Date: 2/9/2021
Attached is:	See Section below	
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
X	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at [http://www.usace.army.mil/CECW/Pages/reg\\_materials.aspx](http://www.usace.army.mil/CECW/Pages/reg_materials.aspx) or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

## SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

### POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact: Sarah Keller U.S. Army Corps of Engineers Indianapolis Regulatory Office 8902 Otis Avenue, Suite S106B Indianapolis, IN 46216 (317) 543-9424	If you only have questions regarding the appeal process you may also contact: U.S. Army Engineer Division, ATTN: Regulatory Appeal Review Officer, CELRD-PD-REG 550 Main Street - Room 10-714 Cincinnati, Ohio 45202-3222
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**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

_____ Signature of appellant or agent.	Date: _____	Telephone number: _____
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**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): [2/9/2021](#)

ORM Number: [LRL-2021-53-sjk](#)

Associated JDs: [N/A](#)

Review Area Location<sup>1</sup>: State/Territory: [IN](#) City: [Indianapolis](#) County/Parish/Borough: [Marion and Johnson](#)

Center Coordinates of Review Area: Latitude [39.6347](#) Longitude [-86.1797](#)

## 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)<sup>2</sup>

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</a>

### C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): <sup>3</sup>				
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination	
<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</a>

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
<a href="#">Pleasant Run Creek</a>	<a href="#">1,156</a>	<a href="#">linear feet</a>	<a href="#">(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.</a>	<a href="#">The tributary flows perennially to White River, which becomes a TNW.</a>
<a href="#">Buffalo Creek</a>	<a href="#">500</a>	<a href="#">linear feet</a>	<a href="#">(a)(2) Perennial tributary contributes</a>	<a href="#">The tributary flows perennially to Pleasant Run Creek then White River, which becomes a TNW.</a>

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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.	

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)). <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Wetland A	0.05	acre(s)	(b)(1) Non-adjacent wetland.
UNT 1 Pleasant Run Creek	111	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.
UNT 1 Buffalo Creek	202	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.
UNT 2 Buffalo Creek	224	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.
UNT 3 Buffalo Creek	80	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.

<sup>4</sup> 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.

<sup>5</sup> 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)): <sup>4</sup>				
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination	
RSD 1	287	linear feet	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	The ditch was construction in dry land and lined with concrete to convey stormwater along County Line Road to Buffalo Creek.
Pond 1	0.53	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.	The pond was recently constructed from dry, agricultural land to detain stormwater from an adjacent residential development.
Pond 2	0.28	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.	The pond was constructed in dry land as a stormwater detention pond for the adjacent residential development.

### 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: “[Waters of the U.S. Report](#)” dated December 4, 2020, by HNTB.

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 in report (10/7/2020); undated aerials in waters report.
- 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.](#)



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- USDA NRCS Soil Survey: [Web Soil Survey](#), Marion and Johnson County
- USFWS NWI maps: [Digital map in waters report](#).
- USGS topographic maps: [1:24k scale](#) and [1:4800 scale](#); Maywood and Bargersville quads

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS 8, 10, 12 digit HUC maps	<a href="#">HUC12 in waters report</a>
USDA Sources	<a href="#">N/A.</a>
NOAA Sources	<a href="#">N/A.</a>
USACE Sources	<a href="#">N/A.</a>
State/Local/Tribal Sources	<a href="#">N/A.</a>
Other Sources	<a href="#">N/A.</a>

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

**C. Additional comments to support AJD:** [N/A](#)