



**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): 6/22/2021

ORM Number: MVP-2021-00245-RJH

Associated JDs: N/A

Review Area Location¹: State/Territory: WI City: De Pere County/Parish/Borough: Brown

Center Coordinates of Review Area: Latitude 43.15594090 Longitude -88.53164140

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	
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.



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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
Wetland 1	0.04	acre(s)	(b)(1) Non-adjacent wetland.	Based on a review of aerial photography, lack of soil wetness signatures, and after evaluating the delineation report and USGS topographic maps, we have determined that the review area includes no WOUS subject to Corps of Engineers Jurisdiction.
Wetland 2	0.03			Wetlands 2,4-5, 8-9, 12-15,& 17-21 are wetland depressions that do not extend outside the review area, with boundaries that transition into uplands within the surrounding area.
Wetland 3	0.19			Wetlands 1 & 3's boundaries extend outside the review area. Wetlands 1 and 3's SW boundaries extend into a linear depression and connects north into a storm water feature that was built in-line into a tributary to the Fox River. Based on the lack of wet soil signatures in aerial photography, we have determined the NE boundaries of the Wetland 1 and 3 transition into uplands of the surrounding landscape. After evaluation of the submitted delineation report we have determined that the connecting linear depression does not have continuous wetland conditions, and that this linear depressional feature connecting Wetland 1 and 3 was built in uplands severing jurisdiction to any downstream aquatic resource.
Wetland 4	0.01			Wetland 6, 7 & 22's SE boundaries extend outside the review area and connect to the ROW ditch of the Williams Grant Railroad. Based on lack of wet soil signatures in aerial photography, we have determined the NW boundaries of the Wetland 6,7 &22 transition into the uplands of the surrounding landscape. No culverts exist to connect the resources any other waters. Areas where the Railroad ROW was constructed lacked sufficient hydrology to support wetland
Wetland 5	0.01			
Wetland 6	0.20			
Wetland 7	0.23			
Wetland 8	0.03			
Wetland 9	0.82			
Wetland 10	0.10			
Wetland 12	0.04			
Wetland 13	0.02			
Wetland 14	0.03			
Wetland 15	0.02			
Wetland 16	0.58			
Wetland 17	0.01			
Wetland 18	0.01			

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
Wetland 19	0.02			<p>conditions and therefore were constructed in uplands and does not serve as a connection to any other a(1)-a(3) water.</p> <p>Wetlands 1-10,& 12-22 do not abut any a(1)-a(3) waters and are not separated from one by a natural or man-made feature. The nearest mapped tributary from the review area is a tributary to the Fox River 141 linear feet north of Wetland 18 with an elevation difference of approximately 3.16 feet, eliminating the likelihood of these features being flooded in a typical year by an a(1)-a(3) water.</p> <p>Based on the information stated above, we have determined that Wetlands 1-10,& 12-22 are (b)(1) exclusion waters and are not regulated by the Corps of Engineers under Section 404 of the Clean Water Act.</p>
Wetland 20	0.02			
Wetland 21	0.04			
Wetland 22	0.14			
Wetland 11	0.13	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	<p>Based on the submitted delineation report and aerial photography, we have determined that Wetland 11 is a ditch that has been partially constructed in uplands within an agricultural field. Areas where Wetland 11 was constructed, lacked sufficient hydrology to support wetland conditions and therefore was constructed in uplands. Wetland 11 extends outside of the review area and connects to a series of stormwater ponds that have been built in-line with a tributary to the Fox River. The soil series (Po) is a predominantly hydric soil series and the boundary transitions into upland areas within the review area and confined to the toe slope of the constructed ditch.</p> <p>Based on the information stated above, we have determined that Wetland 11 is a (b)(5) exclusion water and is therefore not regulated by the Corps of Engineers under Section 404 of the Clean Water Act.</p>

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.



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☒ Information submitted by, or on behalf of, the applicant/consultant: [AJD request submitted by Robert E Lee and Associates on 6/2/2021.](#)

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: Photos submitted in the AJD request.](#)
- ☐ 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: [USGS Soil Web](#)
- ☐ USFWS NWI maps: [Title\(s\) and/or date\(s\).](#)
- ☒ USGS topographic maps: [1:24K- Oneida South](#)

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): [N/A](#)

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