



**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): 3/10/2021

ORM Number: MVP-2021-00096-AJK

Associated JDs: N/A

Review Area Location¹: State/Territory: WI City: Somers County/Parish/Borough: Kenosha

Center Coordinates of Review Area: Latitude 42.62438 Longitude -87.94429

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.	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.	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.	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.	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 X Wetland Y Wetland Z	0.03 0.26 0.10	acre(s)	(b)(1) Non-adjacent wetland.	<p>These wetlands are wet depressions surrounded by upland, evidenced by 1) 1-ft contours showing natural depression and higher slopes outside of the wetlands, 2) non-hydric soils surrounding the wetlands, and 3) lack of National Wetland Inventory/Wisconsin Wetland Inventory polygons abutting these wetlands. Wetland X is surrounded on three sides by manicured golf course greens and to the south by an upland portion of agricultural field. Wetlands Y and Z are surrounded on all sides by upland agricultural fields. Aerial photographs and the ground level photos from the delineation report did not show any inlets/outlets other than overland sheet flow. Based on the wetlands' geographic position (surrounded by agricultural field and/or golf course greens) and reviewing aerial photos, there are no artificial or natural barriers separating them from an (a)(1)-(a)(3) water.</p> <p>The nearest tributary to Y and Z is unnamed to Kilbourn Road Ditch, approximately 280 feet south. The wetlands are at a similar elevation, but there is a 2-3 foot elevation rise between the wetlands and the tributary, and the wetlands are in the Area of Minimal Flood Hazard based on FEMA's National Flood Hazard Layer. The nearest tributary to Wetland X is unnamed to Pike Creek, approximately 316 feet to the northwest and about 15 feet lower in elevation (685' to 700'). Wetland X is also in the Area of Minimal Flood Hazard. Therefore, none of these wetlands would be flooded by an (a)(1)-(a)(3) water in a typical year.</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.

☒ Information submitted by, or on behalf of, the applicant/consultant: [Wetland Delineation Report by Baxter & Woodman, May 2020](#)

This information is sufficient for purposes of this AJD.

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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Rationale: [N/A](#)

- ☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- ☒ Photographs: [Aerial and Other: 2020 Google Earth, ground level site photographs from delineation 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.](#)
- ☒ USDA NRCS Soil Survey: [Kenosha County](#)
- ☒ USFWS NWI maps: [Kenosha County](#)
- ☒ USGS topographic maps: [Kenosha County Somers Quadrangles](#)

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 wetland inventory maps	Wisconsin Wetland Inventory
FEMA/FIRM maps	National Flood Hazard Layer
Other Sources	Kenosha County 1-ft contours

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

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