



**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): 9/24/2020
 ORM Number: MVP-2019-00113-RJH
 Associated JDs: Previous AJD issued September 18, 2019 under MVP-2019-00113-JLK
 Review Area Location¹: State/Territory: WI City: Town of Vandebroek
 County/Parish/Borough: Outagamie
 Center Coordinates of Review Area: Latitude 44.317043 Longitude -88.298121

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	0.84	acre(s)	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on the information provided in delineation report and review of the 1992- 2018 aerial photos, Wetland 1 is an ephemeral swale that is located within an agricultural field. There is not sufficient evidence to suggest it carries intermittent or perennial flow. The western half of Wetland 1 does not have a visible bed and bank or OWHM while eastern half of Wetland 1 has been manipulated during agricultural practices to create a trapezoidal channel. There are no portions of this feature that were constructed in an (a)(4) water.
Wetland 5	0.04	acre(s)		Based on information provided in the delineation report and a review of the 1992-2018 aerial photos, Wetland 5 is an ephemeral swale within an agricultural field connecting to an unnamed tributary to Apple Creek. No visible bed and bank or OWHM can be identified and there is no other evidence to suggest intermittent or perennial flow. There are no portions of this feature that were constructed in an (a)(4) water.
Wetland 3	0.4	acre(s)	(b)(1) Non-adjacent wetland.	Based on information, aerial photos, and ground level photos in the submitted wetland delineation report, Wetlands 3, 4, and 6 do not abut any a(1)-a(3) waters, nor are they separated from one by a natural or manmade feature. Wetlands 3, 4, and 6 are not flooded in a typical year by an a(1)-a(3) water. Swale features within the agricultural field convey surface water into and out of Wetlands 3, 4, and 6 but the swales are not an a(1)-a(3) water.
Wetland 4	0.13	acre(s)		
Wetland 6	0.01	acre(s)		
Wetland 7	0.005	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	Wetland 7 is a roadside ditch that does not have perennial or intermittent flow and does not meet the criteria as (a)(1) or (a)(2) waters. Wetland 7 was constructed to act as a roadside ditch along Buchanan Road and Dans Ct. There are no portions of this feature that were constructed in an (a)(4) water.

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
		do not satisfy the conditions of (c)(1).	

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: [AJD request submitted by Davel Engineering & Environmental, Inc. on 8/28/2020.](#)

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: See photos in the submitted 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: [Title\(s\) and/or date\(s\).](#)
- USFWS NWI maps: [Title\(s\) and/or date\(s\).](#)
- USGS topographic maps: [1:24K- Oshkosh NE](#)

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](#)