



**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): 5/17/2021

ORM Number: MVP-2002-05472-AJK

Associated JDs: MVP-2002-05472-AJK 5 MAR 2021, 2002-05472-DJP 15 JUN 2006.

Review Area Location<sup>1</sup>: State/Territory: WI City: Union Grove County/Parish/Borough: Racine

Center Coordinates of Review Area: Latitude 42.69791 Longitude -88.05608

**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
N/A.	N/A.	N/A.	N/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	
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.

<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.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**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
W-1 W-3 W-4 W-5 W-8 W-9	2.05 0.61 0.15 0.22 1.00 0.04	acre(s)	(b)(1) Non-adjacent wetland.	<p>W-1, W-3, W-8, and W-9 were all determined to be non-jurisdictional as isolated intrastate wetlands in 2006 under previous regulations. These wetlands were re-delineated (along with two new ones, W-4 and W-5) and are being re-evaluated under current regulations.</p> <p>Topographic contours and aerial photographs show that these wetlands are all wet depressions surrounded by upland. W-3 and W-8 extend outside of the delineation area, so those areas were reviewed as well. W-4, 5, and 9 are low areas within upland farm fields. W-1 includes a tile outlet to the southeast, but this does not provide a surface connection to a water of the US. W-3 extends slightly off-site to the west, but topography and soil maps show a large ridge and non-hydric soils that preclude the wetland from connecting to another water of the US.</p> <p>W-8 extends off-site to the east, but based on aerial photos and Google Earth Street View the wetland connects to a linear ditch with no culvert structure connection across STH 45 to the east. W-8 is also constrained to the east by a parking lot and buildings with no culvert structures under these features. An ephemeral feature (WW-4) runs through W-8 to the south, but the southern edge of W-8 transitions to diffuse overland flow across upland farm field, evidenced by ground level photos showing crops growing, aerial photos showing diffuse drainage, and predominately non-hydric soils south of W-8. The nearest tributary to any of these wetlands is unnamed to the West Branch Root River, approximately 460 feet from W-5 and 440 feet from W-8. The tributary is at least 4 feet lower in elevation than any of the wetlands. Based on FEMA's National Flood Hazard Layer, all of the wetlands are in the Area of Minimal Flood Hazard; therefore, they would not be flooded by</p>

<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.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination	
			<p>an (a)(1)-(a)(3) water in a typical year.</p> <p>Based on site photos and aerial photos, there are no artificial or natural barriers connecting these wetlands to a water of the US. As described above, W-8 connects to a linear ditch along the west side of STH 45; however, the absence of culvert structures does not allow a hydrologic connection from W-8 to the east side of the road in a typical year.</p>	
WW-4	400	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	WW-4 is an ephemeral swale evidenced by ground level photos showing a lack of flow and lack of bed/bank. Aerial photos show the feature with flow only in some years. The feature is not mapped as a waterway on USGS topography, EPA's Google Earth water layer, or NHD. The feature only flows in response to precipitation or snow melt.

### 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: [Heartland Ecological Group, April 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: Historic aerial photographs \(1980-0217\), ground level site photos submitted by Heartland](#)

☐ Corps site visit(s) conducted on: [Date\(s\)](#).

☒ Previous Jurisdictional Determinations (AJDs or PJDs): [2002-05472-DJP June 15, 2006](#)

☐ Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

☒ USDA NRCS Soil Survey: [Racine County](#)

☒ USFWS NWI maps: [Racine County](#)

☒ USGS topographic maps: [Union Grove Quadrangles](#)

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

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">N/A.</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">Other state/local data (specify)</a>	<a href="#">Racine County 2-ft contours</a>
<a href="#">Other Sources</a>	<a href="#">N/A.</a>



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

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

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