



**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): 5/18/2021

ORM Number: MVP-2021-00504-MWM

Associated JDs: N/A

Review Area Location¹: State/Territory: WI City: Town of Lena County/Parish/Borough: Oconto

Center Coordinates of Review Area: Latitude 44.986874 Longitude -88.064913

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.	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 1	0.391	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 1 does not abut an a(1)-(3) water and isn't inundated by flooding from an a(1)-(3) water in a typical year. Wetland 1 is not separated from an a(1)-(3) water by a natural or artificial feature nor does it have direct hydrological surface connection in a typical year. Wetland 1 abuts Jagiello Road on the west side, the wetland is otherwise surrounded by upland and is within a topographic depression. A culvert in the NW corner travels across Jagiello Road to the west, the culvert is not within the wetland and does not connect the wetland offsite. Approximately 275 feet north of Wetland 1 is an unnamed tributary to the North Branch Little River. Aerial photos included in the AJD request from 1938, 1981-2006, 2008, 2010, 2011, 2014, 2015, 2017, and 2018 do not show the wetland leaving the site and connecting to the unnamed tributary or any other a(1)-(3) water. There is not a mapped flood zone for the nearest a(1)-(3) water however, along with the distance and elevation change of 3 feet between the features, the wetland would not be flooded by the a(1)-(3) water in a typical year. The nearest a(1)-(3) water, the North Branch Little River is a 1st order stream, aerial photos do not show the area flooded or with sitting water, which is further evidence supporting the unlikelihood of the a(1)-(3) water flooding the wetland in a typical year.

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: [Shyann Banker, Evergreen Consultants LLC, March 19, 2021](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

☐ Data sheets prepared by the Corps: [N/A](#)

☐ Photographs: [Select. N/A](#)

☐ Corps site visit(s) conducted on: [N/A](#)

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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- ☐ Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)
- ☐ Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- ☐ USDA NRCS Soil Survey: [N/A](#)
- ☐ USFWS NWI maps: [N/A](#)
- ☐ USGS topographic maps: [N/A](#)

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: [Wetland was previously filled in 2019 with material from installation of a drive for access to a feed pad, there are still wetland indicators in the filled area.](#)