



**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): 8/30/2021

ORM Number: MVP-2006-02875-AJK

Associated JDs: N/A

Review Area Location¹: State/Territory: WI City: Muskego County/Parish/Borough: Waukesha

Center Coordinates of Review Area: Latitude 42.89655 Longitude -88.17690

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
W-1 W-2	0.51 0.06	acre(s)	(b)(1) Non-adjacent wetland.	<p>W-1 is a depression surrounded by steeper upland that extends slightly outside of the delineation area to the north, as confirmed by 5-ft and 1-ft contours showing the clear depression surrounded by steeper slopes, as well as being surrounded by predominately non-hydric soils. W-2 extends outside of the delineation area to the west, so that area was reviewed in detail. The wetland's extent is constrained by 1) steep slopes to the west and south inconducive to wetland formation (a building is perched on a tall hill to the west of the wetland), 2) the presence of non-hydric soils (Ozaukee silt loam) and small WWI polygon to the west of the delineation area, and 3) aerial photos (2014, 2015, 2017, 2018) showing a characteristic wetland vegetation signature surrounded by mowed or manicured upland.</p> <p>The nearest tributary to either wetland is unnamed to Muskego Lake, approximately 3,000 feet to the southeast and over 15 feet lower in elevation. Based on FEMA's National Flood Hazard Layer, the wetlands are in the Area of Minimal Flood Hazard; therefore, they would not be flooded by an (a)(1)-(a)(3) water in a typical year.</p> <p>Based on 1-ft contours and general geomorphic position, there are no single natural features separating W-1 or W-2 from an (a)(1)-(a)(3) water. The delineation report mentioned no culverts or other artificial structures that connect the wetlands to an (a)(1)-(a)(3) water, and no culverts can be seen in aerial photos.</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 Heartland Ecological Group, July 2021](#)

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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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: Google Earth aerial photographs, ground level site photos 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: **Waukesha County**
- ☐ USFWS NWI maps: **Title(s) and/or date(s)**.
- ☒ USGS topographic maps: **Muskego 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, Waukesha County 5-ft and 1-ft contour maps
FEMA/FIRM maps	National Flood Hazard Layer

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

C. Additional comments to support AJD: **N/A**