



**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): 6/14/2021

ORM Number: MVP-2021-00819-RJH

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 42.62940 Longitude -87.954864

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 A	1.63	acre(s)	(b)(1) Non-adjacent wetland.	Based on a review of aerial photography, lack of soil wetness signatures, and after evaluating the delineation report and USGS topographic maps, we have determined that Wetlands B- D are wetland depressions that do not extend outside the review area, with boundaries that transition into uplands within the surrounding area.
Wetland B	0.003			Wetland A’s boundary’s extend outside the review area north into the adjacent parcel and east into the roadside ditch adjacent to 120th Avenue. A culvert exists under the driveway adjacent to 120th ave to maintain excess storm water runoff from the road surface and based on lack of wet soil signatures in aerial photography, we have determine the north boundary transitions into uplands. No culverts exist to connect the resource to wetlands south of the driveway, and the roadside ditch was constructed in uplands and does not serve as a connection to any other a(1)-a(3) water.
Wetland C	0.006			
Wetland D	0.006			Wetland D abuts a waterfilled gravel pit. Based on a review of aerial photography, lack of soil wetness signatures, and elevations on the USGS topographic maps, we have determined that the Gravel Pit Pond abutting Wetland D was constructed in uplands. No culverts are present which would serve as a connection to any other jurisdictional resource.
Wetlands A-D do not abut any a(1)-a(3) waters and are not separated from one by a natural or man-made feature. The nearest mapped tributary from the review area is a tributary to Kilbourn Road Ditch 2,103 linear feet north of Wetland A with an elevation difference of approximately 26.1 feet, eliminating the likelihood of these features being flooded in a typical year by an a(1)-a(3) 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
				Based on the information stated above, we have determined that Wetlands A-D are (b)(1) exclusion waters and are not regulated by the Corps of Engineers under Section 404 of the Clean Water Act.
Wetland E	0.006	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 do not satisfy the conditions of (c)(1).	<p>Based on the submitted delineation report and aerial photography, we have determined that Wetland E is a ditch that was constructed in uplands within the ROW of 120th Ave. The area where Wetland E was constructed, lacked sufficient hydrology to support wetland conditions and was constructed in uplands. The soil series (EtA) is a predominantly non-hydric soil series and the boundary transitions into upland areas within the review area and confined to the toe slope of the constructed ditch.</p> <p>Based on the information stated above, we have determined that Wetland E is a (b)(5) exclusion water and is therefore not regulated by the Corps of Engineers under Section 404 of the Clean Water Act.</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: [AJD request submitted by Davel Engineering & Environmental Inc on 4/20/2021.](#)

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: Photos submitted in the 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- Eldorado](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.



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Data Source (select)	Name and/or date and other relevant information
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