



**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): 7/9/2020

ORM Number: MVP-2020-01113-AJK

Associated JDs: N/A

Review Area Location¹: State/Territory: WI City: Pleasant Prairie County/Parish/Borough: Kenosha

Center Coordinates of Review Area: Latitude 42.51046 Longitude -87.89541

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
See attached sheet.	See attached	acre(s)	(b)(1) Non-adjacent wetland.	See attached sheet.
Parcel B drainage ditch	0.05	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).	This ditch carries no more than ephemeral flow and does not relocate a tributary, is not constructed in a tributary, and is not constructed in an adjacent wetland.

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 Reports by raSmith, December 21, 2017, November 9, 2018, and August 15, 2019.](#)

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 \(2000-2018\), historic aerial photos from delineations, ground level site photos](#)

☐ 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: [Kenosha County](#)

☐ USFWS NWI maps: [Title\(s\) and/or date\(s\).](#)

☒ USGS topographic maps: [Kenosha County 1-ft contours](#)

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

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

Features that fall under the (b)(1) non-adjacent wetland exclusion				
<u>Name</u>	<u>Acres</u>		<u>Name</u>	<u>Acres</u>
W-1_A	0.48		W-15_A	0.16
W-2_A	0.19		W-16_A	0.08
W-3_A	0.04		W-17_A	0.09
W-4_A	0.03		W-18_A	0.05
W-5_A	0.04		W-1_B	0.04
W-6_A	0.07		W-3_B	0.06
W-7_A	0.07		W-2_C	0.004
W-8_A	0.02		W-3_C	0.31
W-9_A	0.08		W-4_C	0.43
W-10_A	0.03		W-5_C	1.20
W-12_A	0.03		W-7_C	0.29
W-13_A	0.04		W-8_C	0.008
W-14_A	0.02			

Rationale For Exclusion Determination

Wetlands 4 and 7 in Parcel C are connected to culvert outlets, however, these outlets connect to a non-jurisdictional roadside ditch along STH 31 that does not connect to an (a)(1)-(a)(3) water. Wetland 1 in Parcel B is a wet meadow swale with a drain tile outlet and a culvert inlet. The culvert is connected to the same non-jurisdictional roadside ditch along STH 31 that does not connect to an (a)(1)-(a)(3) water. Wetland 3 in Parcel B is adjacent to a non-jurisdictional drainage ditch (described as (b)(5) category on form). Wetlands 1, 2, 3, 4, 5, 6, 7, 10, 13, 14, 15, 16, 17, and 18 in Parcel A and Wetlands 2, 3, 5, and 8 in Parcel C are depressional wetlands with no inlets or outlets. Wetlands 8, 9, and 12 in Parcel A are a mix of hardwood swamp and shrub-carr wetland with no inlets or outlets. Unless a culvert/drain tile was stated above, the only outlet from any of these wetlands is through overland sheet flow. None of these wetlands abut at least one point or side of a paragraph (a)(1)-(3) water. Based on the United States Geologic Survey and elevation contours they would not be flooded by an (a)(1)-(3) water in a typical year. There is not a natural berm, bank, dune, or similar natural feature physically separating them from a paragraph (a)(1)-(3) water. They are not physically separated from a paragraph (a)(1)-(3) by an artificial dike, barrier, or similar artificial structure. Therefore, these wetlands do not fall under Corps jurisdiction under the NWPR.