



**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): 12/16/2020

ORM Number: MVP-2020-02237-RJH

Associated JDs: NA

Review Area Location¹: State/Territory: WI City: Fond du Lac County/Parish/Borough: Fond du Lac

Center Coordinates of Review Area: Latitude 43.734704 Longitude -88.472437

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
W-1	7.53	acre(s)	(b)(1) Non-adjacent wetland.	Based on aerial photos and ground level photos in the submitted wetland delineation report, Wetlands 1-3 do not abut any a(1)-a(3) waters, and are not separated from one by a natural feature. After review of the topography and elevations of the surrounding area, Wetlands 1-3 are not flooded in a typical year by an a(1)-a(3) water. The closest mapped tributary is the East Branch of the Fond du Lac River which is located 2,888 feet southwest of the review area. There is approximately an 8 ft difference in elevation from the review area to the East Branch of the Fond du Lac River.
W-2	0.08			Wetland 1 extends outside of the review area to the north where it is bordered by the STH 151 ROW ditch. Wetland 1 is also bordered by a constructed ditch along the south and west. After reviewing the historic aerial photography (1937, 1949, and 1972) and soils map we have determined that the ditches bordering Wetland 1 were predominantly constructed in uplands. We have also determined that Wetland 1's boundaries do not extend to an a(1)-a(3) water and the boundaries transition into upland in the adjacent agricultural parcels.
W-3	0.23			The soil series (McA) is a predominantly upland soils series, prior to ditch construction, the topography of the ditch area wouldn't support hydric inclusion. Review of the topography and elevation profile also indicates portions of the ditch may have been constructed in wetland but not the entire length of the ditch. Water flow within the ditch appears to be no more than intermittent based on a review of the 1992-2018 aerial photography. Review of the elevation profile from the review area and the distance to the nearest tributary eliminates the likelihood of the East Branch of the Fond du Lac River to flood this wetland feature.

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		Rationale for Exclusion Determination
			Wetlands 2 & 3 are isolated depressions surrounded by uplands. Wetland 2 transitions into uplands within the agricultural field. Wetland 3 extends outside the review area into the Hickory Road ROW. There are no culverts under Hickory Road that connect Wetland 3 to another aquatic resource. Additional photos provided by the applicant indicate the ROW is uplands.

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 Tetra Tech on 11/05/2020](#)

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: 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- Byron](#)

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: [N/A](#)