



**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): 4/9/2021

ORM Number: 2021-00332-JLK

Associated JDs: N/A

Review Area Location¹: State/Territory: Wisconsin City: Algoma County/Parish/Borough: Winnebago

Center Coordinates of Review Area: Latitude 44.030371 Longitude -88.601795

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
Wetland 1	3.96	acre(s)	(b)(1) Non-adjacent wetland.	Based on a review of aerial and ground level photos provided in the delineation report, Wetland 1 is in a depressional area surrounded by uplands including agricultural fields to the north/northwest, south/southeast, and east, development to the west and northeast, and paved roadways in all directions. A review of historical aerial photos from Google Earth (photos taken 06/2015, 04/2015, 07/2011, 06/2010, 06/2008, 06/2006) primarily taken during the wetter months of the year, and historical aerial photos provided in the delineation report, illustrate mostly dry conditions within the area. The delineation map indicates wetland boundaries extend outside of the review area to the northeast. However, the previously mentioned aerial photos indicate uplands involving commercial/residential development is immediately outside of the review area to the northeast and east along with wetlands that have developed in a swale feature extending further eastward. Ground level photos provided via Google Earth indicate wetlands extending eastward are surrounded by uplands involving residential development. Wetland 1 also extends to the southwestern most boundary of the review area along North Oakwood Road. Further review of ground level photos provided by Google Earth indicate this wetland does not continue to the other side of the road as there is no culvert present and the west of the road includes residential development. The Wisconsin Surface Water Data Viewer indicates the nearest (a)(1)-(a)(3) water is an unnamed tributary of Lake Butte des Morts approximately 0.29 mile west of the review area. A review of floodplain maps indicate there is no mapped floodplain for this tributary and a topographic map provided in the report displays the site gradually decreases in elevation toward the tributary to the northwest/west. The distance of the tributary to the wetlands within the review

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	
			area, the change in elevation, the lack of a mapped floodplain within the review area, aerial and ground level photography, all indicate these wetlands do not abut the tributary to the west, are not separated from this water by natural or man-made barriers, and do not receive flooding in a typical year from this water of the U.S.	
Ditches 2, 3, 3(a), and 3(b)	0.16	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).	A review of historical aerial photos and ground level photos provided in the delineation report and Google Earth (photos previously mentioned) indicate these features are man-made linear ditches constructed before 1992 designed to convey water runoff. Furthermore, historical aerial photos indicate consistently dry conditions throughout the years in immediately adjacent uplands. The wetland delineation map indicates immediately surrounding areas are uplands involving roadways, residential development, and agricultural fields. A review of the Wisconsin Wetland Inventory and delineation map illustrates these ditches do not relocate a tributary and were not constructed in a tributary or wetlands.

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: [McMahon Associates, Inc., Irvine Property, Town of Algoma, 2019 Wetland Delineation.](#)

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 and 2019 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: [Title\(s\) and/or date\(s\).](#)
- ☐ USFWS NWI maps: [Title\(s\) and/or date\(s\).](#)
- ☐ USGS topographic maps: [Title\(s\) and/or date\(s\).](#)

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.



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Data Source (select)	Name and/or date and other relevant information
USACE Sources	N/A.
State/Local wetland inventory maps	Wisconsin Wetland Inventory
FEMA/FIRM maps	Floodplain Maps

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

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