



**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): 3/5/2021

ORM Number: MVP-2012-00121-RJH

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 43.095455 Longitude -88.490789

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
Aquatic Feature 1a	0.54	acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Based on the submitted delineation report and aerial photography, Aquatic Feature 1a and Aquatic Features 2b are artificial features. After a review of historic aerial photography between the years 1941-1980 we have determined that the area in which the features were constructed lacked sufficient hydrology to support wetland conditions and that both aquatic features were constructed in uplands. These features are stormwater ponds that were constructed between the years 2000 - 2005 for the purpose of retaining stormwater runoff and overland flow along Thackery Trail and Silver Lake Street. These features do not impound a jurisdictional water and connect to a tributary via pipe to the Oconomowoc River, approximately 55 west of the features.
Aquatic Feature 2b	0.36	acre(s)		
Wetland 4a	0.05	acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Based on the submitted delineation report and aerial photography, Wetland 4a is an artificial feature. Wetland 4a was constructed around the year 1980 for the purpose of conveying stormwater runoff collected by the curb and gutter system along Emerson Drive and Browning Circle. After a review of historic aerial photography between the years 1941-1980, we have determined that the area, in which Wetland 4a was constructed, lacked sufficient hydrology to support wetland conditions and was constructed in uplands. Wetland 4a does not impound a jurisdictional water and connects to the tributary to the Oconomowoc River, 707 linear feet north, northwest of the review area.
Wetland 4b	0.02	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).	Based on the submitted delineation report and aerial photography, Wetland 4b is a ditch constructed in uplands. Wetland 4b runs parallel to Thackery Trail road and developed at the toe of the roadway slope with no indications of past wetland history. The soil series (CrD) is a predominantly upland soil series and the topography of the Wetland 4b's location would not support hydric inclusion.

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
				The feature's boundaries transitions into upland areas within the review and are confined to the toe slope of Thackery Trail Road.
Wetland 5a	0.007	acre(s)	(b)(1) Non-adjacent wetland	Based on aerial photography, photos submitted in the wetland delineation report, and the topography around Wetland 5a and Wetland 5b, we have determined that these wetlands were isolated depressions whose boundaries did not extend outside the review area and transitioned into uplands within the surrounding area. However, construction of Aquatic Feature 4a connects both Wetland 5a and 5b and drains into a tributary to the Oconomowoc River.
Wetland 5b	0.02	acre(s)	(b)(1) Non-adjacent wetland	Wetland 5a and 5b do not abut an a(1)-a(3) water and are not separated from one by any man-made or natural feature. The nearest mapped tributary is 224 feet west of the Wetland 5a with an elevation difference of approximately 8.3 ft. eliminating the likelihood of these features being flooded in a typical year by an (a)1-a(3) water.
Wetland 6	0.14	acre(s)	(b)(1) Non-adjacent wetland	Based on aerial photography, photos submitted in the wetland delineation report, and the topography around Wetland 6, we have determined that Wetland 6 is an isolated depression whose boundaries do not extend outside the review and transition into uplands within the surrounding field. Wetland 6 does not abut an a(1)-a(3) water and is not separated from one by any man-made or natural feature. The nearest mapped tributary is 153 feet west of the Wetland 6 with an elevation difference of approximately 5.56 ft. eliminating the likelihood of this feature being flooded in a typical year by an (a)1-a(3) water.

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 Baxter & Woodman Consulting Engineers on 1/28/2021.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)



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- ☐ 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- Oconomowoc East](#)

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](#)