



**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): 8/27/2020

ORM Number: 2020-01479-ASG

Associated JDs: N/A

Review Area Location¹: State/Territory: WI City: City of Oak Creek County/Parish/Borough: Milwaukee County

Center Coordinates of Review Area: Latitude 42.87301040 Longitude -87.917352

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. | 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. |

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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| | | | |
|------------------------------------|-------------|-----------------|------------------------------------|
| Adjacent wetlands ((a)(4) waters): | | | |
| (a)(4) Name | (a)(4) Size | (a)(4) Criteria | Rationale for (a)(4) Determination |
| N/A. | N/A | acre(s) | N/A. |

D. Excluded Waters or Features

| | | | |
|--|----------------|------------------------|---|
| Excluded waters ((b)(1) – (b)(12)): ⁴ | | | |
| Exclusion Name | Exclusion Size | Exclusion ⁵ | Rationale for Exclusion Determination |
| Wetland A | 0.06 | acre(s) | (b)(1) Non-adjacent wetland. |
| | | | Wetland A does not abut at least one point or side of a paragraph (a)(1)-(3) water. Based on the United States Geologic Survey and elevation contours it 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 it from a paragraph (a)(1)-(3) water. It is not physically separated from a paragraph (a)(1)-(3) by an artificial dike, barrier, or similar artificial structure. The only outlet from Wetland A is through overland sheet flow. Therefore, this wetland does not fall under Corps jurisdiction under the NWPR. |

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 and Waterway Consulting, LLC, February 24, 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: Google Earth \(2000, 2005, 2010, 2015, 2020\), site photos from consultant](#)
- ☐ 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: [Milwaukee County](#)
- ☐ USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).
- ☒ USGS topographic maps: [City of Oak Creek, Milwaukee County](#)

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. |

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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| Data Source (select) | Name and/or date and other relevant information |
|--|--|
| NOAA Sources | N/A. |
| USACE Sources | N/A. |
| State/Local/Tribal Sources | WDNR Surface Water Data Viewer |
| Other Sources | FEMA National Flood Hazard Layer |

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

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