



**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): 10/15/2020

ORM Number: MVP-2010-05252-AJK

Associated JDs: N/A

Review Area Location¹: State/Territory: WI City: Glendale, Whitefish Bay, River Hills, Fox Point, Bayside, Mequon, Grafton. County/Parish/Borough: Ozaukee and Milwaukee

Center Coordinates of Review Area: Latitude 43.15542 Longitude -87.91883

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.	

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.	

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.	

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.	

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.	-	acre(s)	(b)(1) Non-adjacent wetland.	See attached sheet.
See attached sheet.	-	acre(s)	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	See attached sheet.
See attached sheet.	-	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).	See attached sheet.

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 Report by Stantec, May 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 aerial photographs \(2000-2018\), ground level site photographs from delineation report](#)

☐ 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: [Ozaukee and Milwaukee Counties](#)

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

☒ USGS topographic maps: [2-ft contours, Ozaukee/Milwaukee Counties](#)

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 wetland inventory maps	Wisconsin Wetland Inventory
Other Sources	N/A.

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

C. Additional comments to support AJD: N/A

Attachment Sheet for MVP-2010-05252-AJK Approved Jurisdictional Determination

b(1) Non-Adjacent wetland exclusion:

Name	Acreage		Name	Acreage		Name	Acreage
W-12	0.22		W-14	0.12		W-18	0.20
W-19	0.14		W-23	0.14		W-24	0.18
W-25	0.18		W-27	0.33		W-37	0.28
W-38	0.80		W-39	0.55		W-42	0.87
W-47	0.40		W-49	0.87		W-50	0.05
W-51	0.29		W-52	0.27		W-53	0.96
W-55	0.02		W-56	0.52		W-60	0.07
W-61	0.07		W-62	0.03		W-63	0.18
W-71	0.05		W-72	0.11		W-73	0.61
W-74	0.43		W-80	0.24		W-81	0.38
W-90	0.79		W-95	0.05		W-97	0.03
W-104	0.16		W-106	0.85		W-107	0.20
W-117	0.07		W-118	0.04		W-121	0.23
W-122	0.16		W-123	0.96		W-125	0.24
W-126	0.38		W-127	1.67		W-127A	0.72
W-128	0.07		W-139	0.14		W-141	0.04
W-142	0.23						

Rationale: W-12, 14, 25, 47, 49, 50, 51, 52, 53, 55, 73, 74, 80, 81, 104, 106, 107, 117, 118, 121, 122, 123, 125, 126, 127A, 141, and 142 are located wholly within the project area. W-18, 23, 24, 27, 37, 38, 39, 42, 56, 60, 61, 62, 63, 71, 72, 95, 97, 127, 128, and 139 extend off-site but were reviewed using aerial photographs, Wisconsin Wetland Inventory, and USGS topographic maps and are still considered non-adjacent wetlands. The delineation figures show DNR mapped hydrography waterways (that were not delineated themselves) within or adjacent to W-23, 24, 18, 19, 27, 71, and 72; however, these features were reviewed using the Stantec wetland delineation report from May 2020 and in all cases were determined to be non-existent on the ground or a feature with no more than ephemeral flow. W-19 and W-90 are adjacent to stormwater ponds, but these ponds are not considered an a(1)-a(3) water. A portion of W-42 is excluded as a b(5) ditch, while the rest is a non-adjacent wetland. The only outlets from these aquatic resources are through overland sheet flow or connected to another non-adjacent wetland. Based on the United States Geologic Survey and elevation contours these features 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 aquatic resources do not fall under Corps jurisdiction under the NWPR.

b(3) Ephemeral features:

Name	Linear Feet		Name	Linear Feet		Name	Linear Feet
WW-32	20		WW-33	173		WW-49	190
WW-65	77						

Rationale: These features carry no more than ephemeral flow based on review of aerial photographs, ground level site photographs, and topographic maps.

b(5) Ditch exclusion:

Name	Acreage		Name	Acreage		Name	Acreage
W-16 ditch	0.32		W-33	0.03		W-48	0.38
W-54	1.00		W-66	2.79		W-69	0.27
W-83	0.77		W-84	0.81		W-85	0.57
W-89	0.84		W-94	0.65		W-99	0.08
W-100	0.08		W-107	0.41		W-115	0.57
W-116	0.12		W-119	0.25		W-120	0.03
W-124	0.06		W-131	0.05		W-132	0.03
W-133	0.17		W-134	0.03		W-136	0.13
W-143	0.06		W-151	0.02		W-153	0.03
W-103E	0.02		W-103F	0.03		127B	0.08

Rationale: These features are roadside ditches that were constructed in upland to convey localized runoff. Based on aerial photography, ground level site photographs, Wisconsin Wetland Inventory, and USGS topographic maps, these ditches carry no more than ephemeral flow and do not relocate a tributary, are not constructed in a tributary, and are not constructed in an adjacent wetland. A portion of W-16 and W-107 are excluded under the b(1) non-adjacent wetland exclusion. The delineation figures show a DNR mapped hydrography waterway (that was not delineated itself) within W-84; however, this feature was reviewed using the Stantec wetland delineation report from May 2020 and was determined to be non-existent.