



**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): 7/15/2021

ORM Number: 2019-01370-JLK

Associated JDs: N/A

Review Area Location¹: State/Territory: Wisconsin City: Hilbert County/Parish/Borough: Calumet

Center Coordinates of Review Area: Latitude 44.132523 Longitude -88.169859

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
Wetland 1-E(D)	0.83	acre(s)	(b)(1) Non-adjacent wetland.	Based on a review of aerial and ground level photos provided in the delineation report, Wetland 1-E(D) is in a depression area centrally located in an agricultural field and surrounded by uplands. The delineation map shows the boundary of Wetland 1-E(D) is contained within the review area and a review of historical aerial photos provided in the delineation report and via Google Earth (photos taken 05/2018, 04/2017, 04/2015, 10/2011, 05/2011, 06/2010, 06/2008, 06/2006, 05/2005, and 05/1992) primarily taken during the wetter months of the year, illustrate mostly dry conditions within the area. The Wisconsin Surface Water Data Viewer indicates the nearest (a)(1)-(a)(3) water is an unnamed tributary of the North Branch Manitowoc River approximately 0.14 mile east of Wetland 1-E(D) and a review of floodplain maps indicates there is no mapped floodplain for this tributary. A topographic map provided in the report displays the elevation of Wetland 1-E(D) decreases from 852 to 846 towards the tributary to the east. The distance of the unnamed tributary to this wetland, the change in elevation, the lack of a mapped floodplain within the review area, and aerial photography, all indicate this wetland does not abut the unnamed tributary to the east, is not separated from this water by natural or man-made barriers, and does not receive flooding in a typical year from this water of the U.S. Therefore, Wetland 1-E(D) is a (b)(1) Non-adjacent wetland which is non-jurisdictional under Section 404 of the Clean Water Act.
Wetland 3-T	0.17	acre(s)	(b)(1) Non-adjacent wetland.	Based on a review of aerial and ground level photos provided in the delineation report, Wetland 3-T is in a depression area surrounded by uplands involving forested areas. The delineation map shows the boundary of Wetland 3-T is contained within the review area and a review of historical aerial photos provided in the delineation report and via Google Earth (photos

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
Wetlands 2-E(D) and 2-T	0.64	acre(s)	(b)(1) Non-adjacent wetland.	<p>taken 05/2018, 04/2017, 04/2015, 10/2011, 05/2011, 06/2010, 06/2008, 06/2006, 05/2005, and 05/1992) primarily taken during the wetter months of the year, illustrate mostly dry conditions within the area. The Wisconsin Surface Water Data Viewer indicates the nearest (a)(1)-(a)(3) water is an unnamed tributary of the North Branch Manitowoc River approximately 0.38 mile to the east of Wetland 3-T and a review of floodplain maps indicate no mapped floodplain for this tributary. A topographic map provided in the report shows Wetland 3-T is at an elevation of 858 that decreases to 846 towards the unnamed tributary to the east. The distance of the unnamed tributary to this wetland, the change in elevation, the lack of a mapped floodplain within the review area, and aerial photography, all indicate this wetland does not abut the unnamed tributary to the east, is not separated from this water by natural or man-made barriers, and does not receive flooding in a typical year from this water of the U.S. Therefore, Wetland 3-T is a (b)(1) Non-adjacent wetland which is non-jurisdictional under Section 404 of the Clean Water Act</p> <p>Based on a review of aerial and ground level photos provided in the delineation report, these wetlands are in depressional areas located in the western portion of the review area. Uplands are immediately surrounding Wetland 2-E(D) including mostly an agricultural field and forested areas to the north. While uplands involving forested areas are surrounding Wetland 2-T. The delineation map shows the boundaries of Wetlands 2-T extends outside of the review area to the west. However, a review of aerial photos provided via Google Earth indicates this wetland does not extend further than the forested area to the west. Historical aerial photos provided in the delineation report and via Google Earth (photos taken 05/2018, 04/2017, 04/2015, 10/2011, 05/2011, 06/2010, 06/2008, 06/2006, 05/2005, and 05/1992) primarily taken during the wetter months of the year, illustrate mostly dry conditions within the area. The Wisconsin Surface Water Data Viewer indicates the nearest (a)(1)-(a)(3) water is an</p>



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size		Exclusion ⁵
			<p>unnamed tributary of the North Branch Manitowoc River approximately 0.29 mile to the southeast of Wetland 2-E(D) and a review of floodplain maps indicate no mapped floodplain for this tributary. The Surface Water Data Viewer also shows the mapped tributary to the east of the review area extends from the eastern portion of the agricultural field, to the south approximately 0.43 mile, then turns back to the northwest where it then ends within the review area. However, the wetland delineation does not indicate the presence of an aquatic resource in this area and a review of historical aerial photos (previously mentioned) shows mostly dry conditions in the area. Aerial photos also indicate the tributary extends to the south where it then dissipates before turning back to the northwest. Furthermore, the topographic map provided in the report, displays Wetland 2-E(D) is at an elevation of 858 that decreases to 848 toward the unnamed tributary to the east. The distance of the unnamed tributary to the wetlands within the review area, the change in elevation, the lack of a mapped floodplain within the review area, and aerial photography, all indicate these wetlands do not abut the unnamed tributary to the east, 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. Therefore, these wetlands are (b)(1) Non-adjacent wetlands which are non-jurisdictional under Section 404 of the Clean Water Act.</p>

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: [NES Ecological Services, Parcels 13079 and 11953 Wetland Delineation, Village of Hilbert, 2018 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 Calumet County GIS](#)
- ☐ Corps site visit(s) conducted on: [Date\(s\).](#)
- ☐ Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\).](#)



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NAVIGABLE WATERS PROTECTION RULE**

- ☐ 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.
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](#)