



**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): 11/17/2020

ORM Number: MVP-2020-01973-RJH

Associated JDs: N/A

Review Area Location¹: State/Territory: WI City: Appleton County/Parish/Borough: Outagamie

Center Coordinates of Review Area: Latitude 44.296161 Longitude -88.371402

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.	

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	0.6	acre(s)	(b)(1) Non-adjacent wetland.	Based on aerial photos and ground level photos in the submitted wetland delineation report, these wetlands are surrounded by uplands, not abutting any a(1)-a(3) waters, and are not separated from one by a natural or manmade feature. These wetlands are not flooded in a typical year by an a(1)-a(3) water.
Wetland 2	0.28	acre(s)		These wetland features are isolated and a review of the evaluation profile from the review area to the nearest tributary shows a series of elevation spikes and road eliminating the likelihood of a tributary to flood these wetland features. The roadways bordering these features were evaluated for possible connections to other aquatic resources via culverts and no culverts were identified within the review areas. The nearest tributary from the wetland features is an unnamed tributary to Apple Creek, which is 327 linear feet north of Wetland 6.
Wetland 6	0.4	acre(s)		
Wetland 4	367	linear feet	(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, a portion of Wetland 4, identified within the review area, is a ditch constructed in uplands alongside a road to a commercial development. The ditch portion of Wetland 4 developed at the toe of the roadway slope as part of the construction of the commercial development with no indications of past wetland history. Wetland 4 extends outside of the review area in the form of an unnamed tributary to Apple Creek, which is a mapped waterway.

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 McMahon & Associates on 10/07/2020](#)

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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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: 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- Kaukauna**

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**