



**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): 12/23/2020

ORM Number: MVP-2020-02109-MHK (Wetland 1a, 1b, 2, 3)

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 43.030265 Longitude -88.17826

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 a Wetland 1b Wetland 3	0.02 acre 0.002 acre 0.02 acre		(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 aerial photos, site photos, USGS Quadrangle Map, Google Earth Street View and Wisconsin Surface Water Data Viewer, Wetland 1a, 1b, and 3 are ditches that do not have perennial or intermittent flow. These ditches do not meet the criteria as (a)(1) or (a)(2) waters. The Evergreen Consultants Wetland Delineation Report describes the features as ditches that were excavated in fill soils. Aerial photos and NRCS Soils Map also indicate that these ditches were not constructed in an (a)(4) water. Wetland 1b does extend to the southwest out of the review area but the ditch does not overlap with a mapped tributary or an adjacent wetland. These ditches were not constructed in an (a)(4) water.
Wetland 2	0.003	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 2 is surrounded by upland with no inlets/outlets and does not abut one point or side of an (a)(1)-(3) water. Overland sheet flow from surrounding upland could flow towards this depressional area. According to Waukesha County GIS, the closest mapped tributary is an unnamed tributary to Poplar Creek located over 1715 linear feet away and 3.6 feet lower in elevation. Based on the 1-foot contour map, site photos, surrounding development, distance to the nearest mapped tributary, and the FEMA map, W-2 would not be flooded by an (a)(1)-(3) water in a typical year. There is no natural or artificial berm, bank, dune or similar feature that is physically separating this wetland from an (a)(1)-(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: [Evergreen Consultants LLC Wetland Delineation Report dated 9-24-2020](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).

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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- ☒ Photographs: [Aerial and Other: 2019 \(Google Earth Street View\); 2018, 2017, 2015-2013, 2011-2010, 2008-2005, 2003-1980, 1979, 1970, 1963, 1950, 1941, 1938 in delineation report; 2020 ground level site photos 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: [Waukesha County](#)
- ☒ USFWS NWI maps: [in delineation report](#)
- ☒ USGS topographic maps: [1:24K WI-Waukesha](#)

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	Wisconsin DNR Surface Water Data Viewer; Wisconsin Wetland Inventory; Waukesha County 1-foot contour map
Other Sources	FEMA map

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

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