



**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): 12/8/2020

ORM Number: MVP-2020-02238-RJH

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: WI City: Town of Friendship County/Parish/Borough: Fond du Lac

Center Coordinates of Review Area: Latitude 43.811630 Longitude -88.516205

**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)<sup>2</sup>**

§ 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): <sup>3</sup>				
(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.	

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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.



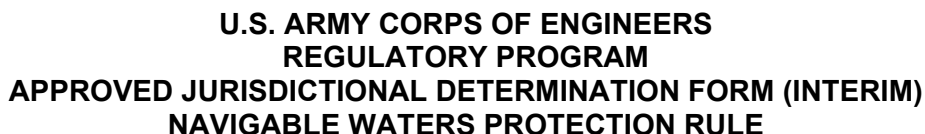
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**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Wetland 1-Pond	2.8	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Based on the soil information submitted in delineation report, historic aerial photography (1949) and the constructed nature of the feature visible in the aerial photography, we have determined that Wetland 1-Pond, is an artificial pond constructed in uplands as a burrow pit for the construction of I-41. The soil series (KoB2) is a predominantly upland soil series. Prior to pond excavation, the topography of the project site wouldn't support hydric inclusion.
Wetland 1	3.63	acre(s)	(b)(1) Non-adjacent wetland.	Based on aerial photos and ground level photos in the submitted wetland delineation report, Wetlands 1-3 extend outside of the review area. After evaluating the delineation report, topography, and elevation profile we have determined that Wetlands 1 through 3 do not abut any a(1)-a(3) waters and are not separated from one by a natural feature.
Wetland 2	0.42			Wetland 1 is a series of depressional drainage ways that receive overland flow and have developed wetland characteristics due to the flat slope and topography of the site. Wetland 1 extends northeast flows under US 41 through a series of culverts and into a shallow constructed drainageway to Anderson Creek. The elevation difference (3ft), distance from Anderson Creek (730ft), and infrastructure of US41 reduces the likelihood of this feature being flooded in a typical year by an a(1)-a(3) water. Using soil data and historical aerial imagery, we have determined that the drainage way connecting Wetland 1 from US 41 to Anderson Creek was not completely constructed in wetlands and therefore severs jurisdiction.
Wetland 3	0.94			After reviewing the topography and soils map we have determined that Wetland 2 is an

<sup>4</sup> 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.

<sup>5</sup> 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.



### III. SUPPORTING INFORMATION

☒ Information submitted by, or on behalf of, the applicant/consultant: [Section 404 Authorization Request submitted by BFW LLC on 11/05/2020](#)

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- Eldorado](#)

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.



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Data Source (select)	Name and/or date and other relevant information
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