



**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): 4/19/2021

ORM Number: MVP-2021-00352-MWM

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: WI City: Town of Grand Chute

County/Parish/Borough: Outagamie

Center Coordinates of Review Area: Latitude 44.294415 Longitude -88.47201

**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	.67	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland 1 does not abut an a(1)-(3) water and isn't inundated by flooding from an a(1)-(3) water in a typical year. The nearest a(1)-(3) water has the flood zone mapped on the FEMA Stay Dry and Flood Smart Google Earth Layer, the review area has a low to moderate risk of flooding, this would not be representative of a typical year. A portion of the wetland offsite is within a Moderate Risk Area, also not representative of a typical year. Wetland 1 is not separated from an a(1)-(3) water by a natural or artificial feature nor does it have direct hydrological surface connection in a typical year. The boundaries of the wetland abut the west, north, and east delineation boundary and the wetland continues off the review area in each of these directions.</p> <p>Along with a review of aerial photos, USFWS National Wetland Inventory depict the boundary of the wetland.</p> <p>The northern boundary of the wetland abuts West Capital Drive, there are no wetland indicators on the opposite side of the road, there is no culvert or similar structure connecting the wetland further north.</p> <p>The western boundary abuts a driveway and a detached garage, there are no wetland indicators on the opposite side of the driveway or garage. At the NW and NE, corner of the review area, a culvert connects the wetland west and east offsite under the adjacent driveway features to a ditch, the ditch was constructed in uplands prior to 1992. There are no wetland indicators south outside of the ditch on either side. This does not alter jurisdiction. At the SW corner, the wetland continues for approximately 150 feet into a field before there is a transition to upland. Aerial photos show different characteristics in the wetland and in upland, the wetland is in a topographic low area, there is an elevation change of 1-3 feet between the wetland and upland. Aerial photos from 2010 to present day show wetness signatures in the wetland and a</p>

<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.



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination	
			<p>shift to upland. The nearest a(1)-(3) water, Mud Creek, is approximately 230 feet south, there is an elevation change of 3 feet between the two features.</p> <p>The eastern boundary abuts Birch Street and does not continue further west beyond the street into the lawn. The wetland continues south for approximately 150 feet into a field before there is a transition to upland. The nearest a(1)-(3) water, Mud Creek, is approximately 180 feet south, there is a change of elevation of over 4 feet between the two features, the elevation of the wetland is lower than the nearest a(1)-(3) feature. Aerial photos from 2008 show the shift from wetland to upland being confined to the topography, wetness signatures do not leave the wetland.</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: [Stacey Caplan, McMahon Associates, Inc. February 23, 2021](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

☐ Data sheets prepared by the Corps: [N/A](#)

☐ Photographs: [Select. N/A](#)

☐ Corps site visit(s) conducted on: [N/A](#)

☐ Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)

☐ Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

☐ USDA NRCS Soil Survey: [N/A](#)

☒ USFWS NWI maps: [USACE accessed April 12, 2021](#)

☐ USGS topographic maps: [N/A](#)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">N/A.</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">N/A.</a>

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



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