



**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): 4/5/2021

ORM Number: MVP-2021-00385-AJK

Associated JDs: N/A

Review Area Location¹: State/Territory: WI City: Oak Creek County/Parish/Borough: Milwaukee

Center Coordinates of Review Area: Latitude 42.87200 Longitude -87.85200

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.	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.	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.	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.	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
W-A W-B W-C W-D	0.19 0.04 0.50 0.02	acre(s)	(b)(1) Non-adjacent wetland.	<p>All four of these wetlands are wet depressions surrounded by upland, as shown by 1-ft topographic contours, USGS topography, and aerial photographs. Wetland A connects to an ephemeral roadside ditch which contains a culvert inlet across 5th Avenue to another roadside ditch. As shown by aerial photos, topography, and Wisconsin Wetland Inventory, there are no (a)(1)-(a)(3) waters that are adjacent to the roadside ditches on either side of 5th Avenue and the ditches provide no connection to any downstream (a)(1)-(a)(3) waters.</p> <p>Wetland C connects to an ephemeral roadside ditch on the north side of E. Ryan Road, but aerial photos and Google Earth Street View show no culverts connecting Wetland C to anything south of E. Ryan Road.</p> <p>Wetlands B and D extend outside of the delineation area to the east, so those areas were reviewed as well. Wetland D connects to the roadside ditch along the north side of E. Ryan Road, but there are no culverts under the road that would provide a surface water connection to an (a)(1)-(a)(3) water.</p> <p>Other than the ditches described above, topographic contours and aerial photos show that there are no other inlets/outlets associated with the wetlands other than overland sheet flow.</p> <p>The nearest (a)(1)-(a)(3) water to any of the wetlands is Lake Michigan, approximately 2,100 feet to the southeast. Historic aerial photographs shows that these wetlands have no connection to an (a)(1)-(a)(3) water. All of the wetlands are in FEMA's Zone of Minimal Flood Hazard; therefore, they would not be flooded by an (a)(1)-(a)(3) water in a typical year.</p>

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
			Topographic contours, aerial photos, and Google Earth street view show that these wetlands are not separated by artificial or natural barriers from an (a)(1)-(a)(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: [Wetland Delineation Report by Wetland & Waterway Consulting, December 2020](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

- ☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- ☒ Photographs: [Aerial and Other: Historic aerial photographs \(1937, 1951, 1967, 1985, 2000, 2005, 2015, 2020\), Google Earth Street View, 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: [Milwaukee County](#)
- ☐ USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).
- ☒ USGS topographic maps: [Oak Creek Quadrangles](#)

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	National Flood Hazard Layer
Other Sources	Milwaukee County 1-ft contours

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

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