



**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): 4/12/2021

ORM Number: MVP-2021-00531-JMB

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 45.78267 Longitude -92.37958

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 Area 1	0.15	acre(s)	(b)(1) Non-adjacent wetland.	The subject waters do not meet the definition of “adjacent wetlands”. A review of available resources confirmed the wetland investigated is located within an enclosed depression that has no surface water connections to intermittent or perennial tributaries. The investigated wetland is physically removed from the nearest A(1)-A(3) water, and there is no evidence that it is directly abutting an A(1) – A(3) water. The investigated wetlands was determined to be hydrologically isolated and is therefore not regulated by the Corps under Section 404 of the Clean Water Act.
Lanquist Street Drainage ditch	900	linear feet	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	The ditch was excavated in upland (as confirmed by the delineation of aquatic resources and historical photos) for the purpose of conveying storm water, based on information provided by the applicant. Therefore, the drainage ditch is not considered to be waters of the U.S. and is not jurisdictional under Section 404 of the Clean Water Act.

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 confirmation provided by WDNR staff \(dated 20 November 2020\) and Remote Navigability Determination completed by WDNR staff dated 13 January 2021.](#)

This information is sufficient for purposes of this AJD.

Rationale: [Navigability Determination provides clear and concise evidence that drainage ditch was constructed in uplands.](#)

- ☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- ☒ Photographs: [Aerial: Historical aerial photography included in Remote Navigability Determination](#)
- ☐ 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: [NRCS – Web Soil Survey](#)

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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- ☒ USFWS NWI maps: [Wetlands Mapper – 08 April 2021](#)
- ☒ USGS topographic maps: [1:24K - Siren](#)

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 information (specify)	WG Xtreme – LiDAR Contours

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

C. Additional comments to support AJD: [WDNR 'Remote Navigability Determination'](#) clearly documents that the roadside drainage ditch along Lanquist Street begins at the outfall location immediately on the east side of Highway 35. The ditch was not present on 1946 historical imagery, and there was no history or indication of a mapped stream in this location, per the public land survey maps from the mid-1800s. The drainage ditch appears to have been constructed sometime prior to its appearance on 1952 historic aerial imagery, and was constructed through uplands. The drainage carries stormwater from Highway 35, passes through Wetland Area 1, and terminates at Wetland Area 2.

[Wetland Area 1](#) is not considered jurisdictional, as a ditch cannot render an otherwise isolated wetland an "adjacent wetland" and thus jurisdictional on that basis, unless the ditch itself is a tributary. [Wetland Area 1](#) is located within an enclosed depression that has no surface water connections to intermittent or perennial tributaries, and is therefore not jurisdictional.