



**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): 9/15/2020

ORM Number: MVP 2020-01522-ASG

Associated JDs: N/A

Review Area Location¹: State/Territory: WI City: Village of Menomonee Falls

County/Parish/Borough: Waukesha

Center Coordinates of Review Area: Latitude 43.121519 Longitude -88.1423785

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)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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
W-1 W-3	0.5 0.2	acre(s)	(b)(1) Non-adjacent wetland.	Wetlands W-1 and W-3 do not abut at least one point or side of a paragraph (a)(1)-(3) water. Based on the United States Geologic Survey and elevation contours they would not be flooded by an (a)(1)-(3) water in a typical year. There is not a natural berm, bank, dune, or similar natural feature physically separating it from a paragraph (a)(1)-(3) water. It is not physically separated from a paragraph (a)(1)-(3) by an artificial dike, barrier, or similar artificial structure. The only outlets from W-1 and W-3 are through overland sheet flow. Therefore, this wetland does not fall under Corps jurisdiction under the NWPR.
W-2 Fingers	0.9	acre(s)	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	The review area consists of the three western portions of Wetland W-2. These portions consist of wet meadow in moderately well-drained and poorly drained but non-hydric soil while the remainder of W-2 (not under review) is shallow marsh with very deep, poorly drained soils. Historic aerial photos from 1937, 1941, 1950, and 1963 show the review area as cropped farmland with no wet signatures. In the southern portion of the review area, no wet signatures are visible throughout 100% of years, and in the north and central portion no wet signatures are seen during 75% of years 1937, 1941, 1950, 1963, 1980, 1990 1995, and 2000, prior to significant and widespread grading which is visible in 2005 and 2006. Wet signatures can be seen after 2006, indicating that the water-filled depressions developed in upland as a result of the 2005-2006 grading and excavation work completed for residential development.
Roadside Ditch	580	linear feet	(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	Google Earth imagery of the roadside ditch from 1937, 1941, 1950, 1963, 1980, 1990, 1995, 2000, 2005, 2006 -2008, 2010, 2013, 2015, 2017, 2018, and 2020 depicts 89% of the years as dry. Site photos from the consultant and Google Earth street level view photos show 100% of sample points in the roadside ditch are dry. This is a manmade roadside ditch and does

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
		conditions of (c)(1).	not have perennial or intermittent flow. The National Hydrography Dataset does not identify this feature as a tributary.

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: [raSmith Wetland Delineation Report, August 19, 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: Google Earth \(2020\), aerial photographs \(1937, 1941, 1950, 1963, 1980, 1990, 1995, 2000, 2005 – 2008, 2010, 2013, 2015, 2017, 2018\), site photos from consultant](#)

☐ 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: [Title\(s\) and/or date\(s\)](#).

☒ USGS topographic maps: [1 ft contour map, Village of Menominee Falls, Waukesha County](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS quadrangle map
USDA Sources	N/A.
NOAA Sources	N/A
USACE Sources	N/A.
State/Local/Tribal Sources	WNDR Surface Water Data Viewer, WDNR Hydro Geodatabase,
Other Sources	Yaggy Colby Associates 2013 Preliminary Plat Map

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

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