



**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): 4/14/2021

ORM Number: 2021-00341-JLK

Associated JDs: N/A

Review Area Location¹: State/Territory: Wisconsin City: Oshkosh County/Parish/Borough: Winnebago

Center Coordinates of Review Area: Latitude 44.032431 Longitude -88.591113

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
Wetland 01(a)	0.22	acre(s)	(b)(1) Non-adjacent wetland.	Based on a review of aerial and ground level photos provided in the AJD request and via Google Earth, Wetland 01(a) is in a depressional area surrounded by uplands including a paved roadway to the north, commercial development involving a paved driveway and parking area immediately west/southwest, manicured lawns to the south/southeast, and additional commercial development to the east. A review of historical aerial photos from Google Earth (photos taken 06/2015, 04/2015, 07/2011, 06/2010, 06/2008, 06/2006, 05/2005) primarily taken in the wetter months of the year and an historical aerial photo via NRCS Winnebago County GIS (taken in the Spring of 1976) illustrate mostly dry conditions within the area. The wetland map indicates wetland boundaries extend to the roadside ditch along the north boundary of the review area and a review of the previously mentioned ground level photos show no culvert present connecting this resource to the north side of Omro Road. The Wisconsin Surface Water Data Viewer indicates the nearest (a)(1)-(a)(3) water is Lake Butte des Morts approximately 0.30 mile northeast of the review area. A review of floodplain maps provided via the Surface Water Data Viewer indicates the mapped floodplain for Lake Butte des Morts is approximately 0.15 mile to the northeast of the review area and a topographic map provided via Google Earth and NRCS Winnebago County GIS displays the area gradually decreasing in elevation toward the lake. The distance of the lake to this wetland, the change in elevation, the lack of a mapped floodplain within the review area, and aerial/ground level photography, all indicate this wetland does not abut the lake to the northeast, is not separated from this water by natural or man-made barriers, and does not receive flooding in a typical year from this water of the U.S.

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	
Wetlands 01 and 02	0.04	acre(s)	(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 conditions of (c)(1).	A review of historical aerial photos provided via NRCS Winnebago County GIS indicates the residential development west and east of the review area was constructed before 1976 while the review area was an agricultural field. A review of additional historical aerial photos provided by NRCS Winnebago County GIS indicate commercial development within the review area and State Hwy 21 immediately south was constructed between 1976 and 1994. Historical aerial photos (previously mentioned) were primarily taken during wetter times of the year and show mostly dry conditions. Ground level photos provided within the AJD request indicate Wetlands 01 and 02 are surrounded by uplands involving roadways, residential development, and commercial development including paved parking areas and manicured lawns. A review of the wetland map and site photos provided in the AJD request and historical aerial photos, all indicate these features are man-made linear ditches designed to convey storm water runoff. A review of the Wisconsin Wetland Inventory also illustrates these features do not relocate a tributary and were not constructed in a tributary or adjacent wetlands.

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: [Merjent Inc., 203786 Omro Road Construction Project, City of Oshkosh, 2021 Desktop Determination.](#)

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 and NRCS Winnebago County GIS](#)
- ☐ 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: [Title\(s\) and/or date\(s\).](#)



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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	Floodplain Maps

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

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