



**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): 1/27/2021

ORM Number: MVP-2020-02532-AJK

Associated JDs: MVP-2013-04712-AJK

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

Center Coordinates of Review Area: Latitude 42.96313 Longitude -87.96379

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.



**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
Wetland K	0.03	acre(s)	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on aerial photographs, ground level photos, Wisconsin Wetland Inventory (WWI), and topographic maps, K is an ephemeral drainage feature (with a culvert) that carries flow only in direct response to precipitation. Ground and aerial photos show an absence of a bed and bank and no ordinary high water mark.
Wetland A Part of W-B W-C W-D W-E W-F W-G W-I W-J	0.12 0.07 0.16 0.17 0.05 0.01 0.19 <0.01 <0.01	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).	Based on historic aerial photographs and topographic maps, these aquatic resources are ditches that were constructed in upland to convey surface water runoff from a highway exit/entrance ramp or from nearby parking lots. The soils are not mapped on the USGS web soil survey, but aerial photos show an absence of wet signatures and WWI maps do not show wetland polygons through them (A and G are mapped as wetlands on WWI but historic aerial photos show that they were constructed and not originally wetland). The topographic map indicates that these ditches are not in a topographically low area where wetlands would be present. F and G are ditches created after removal of the highway entrance ramp sometime in 2011. None of these aquatic resources were constructed in a tributary, relocate a tributary, or were constructed in adjacent wetlands.
Wetland H W-L W-M W-N	0.03 0.03 0.19 0.10	acre(s)	(b)(1) Non-adjacent wetland.	Based on historic aerial photographs, WWI, and topographic maps, these wetlands are isolated depressions surrounded by upland. Wetlands H and L contain no inlets/outlets other than overland sheet flow. Wetland M is an open water pond with no inlets/outlets. Wetland N continues outside of the review area to the east. The portion of wetland N outside of the review area was reviewed for a previous AJD (2013-04712-AJK) and determined to be non-jurisdictional before the Navigable Waters Protection Rule took effect. Under the new rule, Wetland N is non-adjacent as it contains no inlets/outlets to an (a)(1)-(a)(3) water other than overland sheet flow. The closest tributary (within the same HUC) to these wetlands is unnamed, over 1,500 feet to

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
			the northeast of Wetland L and over 20 feet lower in elevation. The wetlands are also in the FEMA Area of Minimal Flood Hazard; therefore, they would not be flooded by an (a)(1)-(a)(3) water in a typical year. There are no natural or artificial barriers separating them 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 Helianthus, 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 photos \(1937, 1963, 1967, 1980, 1985, 2000, 2010, 2020\) and ground level site photos from delineation report.](#)

☐ Corps site visit(s) conducted on: [Date\(s\)](#).

☒ Previous Jurisdictional Determinations (AJDs or PJDs): [MVP-2013-04712-AJK](#)

☐ 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: [Milwaukee County](#)

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
Other Sources	Milwaukee County GIS, 2020

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

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