



**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): 8/23/2021

ORM Number: 2018-03400-JLK

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 44.219048 Longitude -88.528936

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
Wetlands 1 and 2	0.99	acre(s)	(b)(1) Non-adjacent wetland.	Based on a review of aerial and ground level photos provided in the delineation report, both wetlands are present in the bottom of a swale feature traversing through the review area from the southwest corner to the northeast. Both wetlands are surrounded by uplands involving mostly forested areas, agricultural fields to the west and north, residential development involving a driveway separating the two wetlands in the central portion of the review area, and paved roadways to the east and south. The delineation map shows the boundaries of Wetland 1 extends outside of the review area to the north. The Wisconsin Surface Water Data Viewer indicates an (a)(1)-(a)(3) water, an unnamed tributary, is located approximately 0.26 mile further north of the review area. A topographic map provided by Winnebago County GIS shows a decrease in topography from 818 at Wetland 1 to 798 near the unnamed tributary. Additionally, aerial photos provided via Google Earth demonstrates the wetland extends to the north approximately 0.18 mile where it is then contained by uplands involving residential development. The delineation map also shows the boundaries of Wetland 2 extends outside of the review area to the southwest. The Wisconsin Surface Water Data Viewer shows a second (a)(1)-(a)(3) water, another unnamed tributary, approximately 0.22 mile southeast of the southernmost point of Wetland 2 within the review area. A topographic map (previously mentioned) displays an elevation of 824 at Wetland 2 that decreases to 822 towards the tributary. A review of historical aerial photos provided in the delineation report and via Google Earth (photos taken 05/2018, 04/2017, 04/2015, 05/2011, 06/2010, 06/2008, 06/2006, 05/2005, and 05/1992) primarily taken during the wetter months of the year, illustrate mostly dry conditions throughout the review area. Further review of aerial photos provided by Google Earth

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
			suggest a culvert may be present in the central portion of the review area connecting Wetlands 1 and 2 under the residential driveway. A review of floodplain maps provided via the Wisconsin Surface Water Data Viewer indicates no mapped floodplains are present for either the tributary to the north or the tributary to the south. The distance from the tributaries to these wetlands, the change in elevation, the lack of a mapped floodplain within the review area, and aerial and ground level photography, all indicate these wetlands do not abut the tributaries to the north and southeast, are not separated from these waters by natural or man-made barriers, and do not receive flooding in a typical year from these waters of the U.S. Therefore, Wetlands 1 and 2 are (b)(1) Non-adjacent wetlands which are non-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: [Martenson & Eisele Inc., West American Drive Extension, Town of Clayton, 2017 Wetland Delineation.](#)

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 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: [Topo Map](#)

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



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

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