



**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): 4/13/2021

ORM Number: MVP-2021-00414-AJK

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 42.61119 Longitude -87.87340

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
W-1	1.70	acre(s)	(b)(1) Non-adjacent wetland.	<p>W-1 extends outside of the delineation area to the northwest and southwest, so those areas were reviewed as well. To the southwest, the wetland is constrained by residential/commercial development and 31st Street. A storm sewer inlet (heading upstream of W-1) is located at the very southwest corner of W-1, but aerial photos show that there is no surface connection under the road to any jurisdictional aquatic resource. To the northwest, the wetland is constrained by residential development, steeper topography, and non-hydric/predominately non-hydric soils. Green Bay Road runs north/south about 430 feet west of the review area and does not provide a surface connection via culvert to an (a)(1)-(a)(3) water based on aerial photographs. Within the review area, the wetland is bounded by non-hydric and predominately non-hydric soils and upland agricultural field. To the east, the wetland boundary is influenced by drain tile based on the delineation report and site photos. The NHD/NWI map shows a waterway from the north flowing southeast, but this feature does not exist at the surface based on aerial photos and ground level site photos.</p> <p>The nearest jurisdictional tributary is unnamed to Pike Creek, over 3,000 feet to the southeast and over 40 feet lower in elevation. Based on FEMA's National Flood Hazard Layer, W-1 is in the Area of Minimal Flood Hazard; therefore, it would not be flooded by an (a)(1)-(a)(3) water in a typical year.</p> <p>Topographic contours and aerial photographs show that W-1 is not separated by an artificial or natural barrier from an (a)(1)-(a)(3) water. The road barrier to the southwest does not separate W-1 from any aquatic resources (see paragraphs above for inlet discussion).</p>

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
WW-1 WW-3	450 600	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. These features are ephemeral streams within W-1. They are not mapped as waterways on USGS topography, NHD maps, NWI maps, or WI DNR's Surface Water Data Viewer. These features are losing streams that enter a drain tile network in the middle of W-1. The delineation report and ground photos show that these features are ephemeral and only flow in direct response to precipitation or snow melt events. They likely formed after installation of stormwater facilities that daylight west of the review area.

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 Heartland Ecological Group, September 2018](#)

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 photographs \(1981-2017\), ground level site photos from delineation report](#)

☐ 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: [Kenosha County](#)

☒ USFWS NWI maps: [Kenosha County, September 2018](#)

☒ USGS topographic maps: [Kenosha Quadrangles](#)

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.
Other state/local data (specify)	Kenosha County 1-ft contours
FEMA/FIRM maps	National Flood Hazard Layer

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

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