



**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): 4/12/2021

ORM Number: MVP-2015-04381-MWM

Associated JDs: 2015-04381-NTD completed December 22, 2015

Review Area Location<sup>1</sup>: State/Territory: Wisconsin City: Appleton County/Parish/Borough: Calumet

Center Coordinates of Review Area: Latitude 44.233125 Longitude -88.353270

**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)<sup>2</sup>**

§ 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): <sup>3</sup>				
(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.	

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Wetland 1	.161	(b)(1) Non-adjacent wetland.	<p>Wetlands do not abut an a(1)-(3) water and aren't inundated by flooding from an a(1)-(3) water in a typical year. The flood zone for the tributaries north of the review area have a mapped flood zone. No part of the review areas is within the flood zone. There are multiple storm water ponds abutting the tributaries on the property, further ensure the site is not flooded by an a(1)-(3) water. Wetlands are not separated from an a(1)-(3) water by a natural or artificial feature but no wetlands have direct hydrological surface connection in a typical year.</p> <p>Wetlands 2, 3, 5-7, 10-29, 31, 33-44, 46-48 are completely surrounded by upland. These features do not abut an a(1)-(3) water, nor do they have a natural or artificial feature separating them from an a(1)-(3) water, and are not flooded by an a(1)-(3) water.</p> <p>Wetland 1 extends beyond the review area to the north into a field of trees. Aerial images do not show clear boundaries or wetness signatures within the field, a previous delineation completed in 2016 included parts of the field (currently offsite) in the delineation which shows the boundaries of Wetland 1 approximately 200 feet east of the current review area. The field is contained within the corner of the lot surrounded by roads with no culverts or other features which could connect the wetland outside the field. The nearest jurisdictional feature is almost 300 feet NW of the wetland boundary within the review area.</p> <p>Wetland 4 connects to Wetland 4a and 4b, both roadside ditches, and is otherwise surrounded by upland, see below. This does not alter jurisdiction.</p> <p>Manmade manipulation off site altered the connection between Wetland 36 and the</p>
Wetland 2	.038		
Wetland 3	.071		
Wetland 4	.133		
Wetland 5	.109		
Wetland 6	.053		
Wetland 7	.235		
Wetland 10	.028		
Wetland 11	.047		
Wetland 12	.012		
Wetland 13	.028		
Wetland 14	.016		
Wetland 15	.005		
Wetland 16	.024		
Wetland 17	.169		
Wetland 18	.061		
Wetland 19	.041		
Wetland 20	.011		
Wetland 21	.007		
Wetland 22a	.4223		
Wetland 22b	.006		
Wetland 23	.062		
Wetland 24	.024		
Wetland 25	.027		
Wetland 26	.033		
Wetland 27	.014		
Wetland 28	.019		
Wetland 29	.066		
Wetland 31	.154		
Wetland 33	.002		
Wetland 34	.2252		
Wetland 35	.036		
Wetland 36	.2835		
Wetland 37	.025		
Wetland 38	.044		
Wetland 39	.027		
Wetland 40	.04		
Wetland 41	.02		
Wetland 42	.065		
Wetland 43	.027		
Wetland 44	.027		
Wetland 45	.83		

<sup>4</sup> 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.

<sup>5</sup> 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)): <sup>4</sup>				
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination	
Wetland 46 Wetland 47 Wetland 48	.026 .108 .156			<p>beginning of Garner's Creek. A manmade pond was constructed which encompasses the area of the original stream, there is not an artificial or natural feature which connects Wetland 36 with the offsite manmade pond or another a(1)-(3) water. Wetland 36 is not flooded by an a(1)-(3) water in a typical year nor does it abut an a(1)-(3) water. The nearest a(1)-(3) water is approximately 60 feet NE and there is approximately a 7 foot topography change between the features.</p> <p>Wetland 45 connects to Wetlands 45a and 45b, both roadside ditches, and is otherwise surrounded by upland, see below. This does not alter jurisdiction.</p>
Wetland 4a Wetland 4b Wetland 45a Wetland 45b	.165 .0013 .149 .287	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).	<p>Roadside ditches constructed in uplands. Aerial photos from 1981 show the review area as cropland with no wetness signatures in the areas.</p> <p>Prior to construction of S Edgewater Drive, west of Wetland 45a and 45b, there were no wetness signatures in the area. There is a storm water inlet on the northern edge of Wetland 45b. The inlet connects to a jurisdictional feature NE off site. Since the ditch was excavated in upland, this does not alter jurisdiction.</p> <p>Aerial photos dating back to 1981 show N Coop Road, east of Wetland 4a and 4b, constructed and no wetness signatures in the ditches.</p>
Wetland 30	.194	acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	<p>Stormwater conveyance feature constructed in 2008. Water is conveyed north and then east in an L shape, there is stormwater inlet structure in the southernmost part of the feature adjacent to S Eisenhower Drive. Aerial photos prior to 2008 do not show the feature or similar topography in the area. There are also no wetness signatures, indicating the area was upland before manipulation.</p> <p>Prior to disturbances in the area (buildings and roads) there was a mapped unnamed tributary to Garners Creek which began approximately 500 feet NE from the present-day feature. There are no wetness signatures or other wetland indicators present in aerial photos.</p>



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
			This feature was previously identified as Wetland 20 and classified as non-jurisdictional by USACE on December 22, 2015.

**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: Tina Myers, raSmith February 3, 2021

This information is sufficient for purposes of this AJD.

Rationale: N/A

- ☐ Data sheets prepared by the Corps: N/A
- ☐ Photographs: Select. N/A
- ☐ Corps site visit(s) conducted on: N/A
- ☐ Previous Jurisdictional Determinations (AJDs or PJDs): N/A
- ☐ Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- ☐ USDA NRCS Soil Survey: N/A
- ☐ USFWS NWI maps: N/A
- ☐ USGS topographic maps: N/A

**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/Tribal Sources	N/A.
Other Sources	N/A.

**B. Typical year assessment(s):** N/A

**C. Additional comments to support AJD:** The boundaries of Wetland 4, 4a, 4b, 45, 45a, and 45b were estimated only for purposes of this AJD.