



**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): 12/28/2020

ORM Number: 2019-00156-JLK

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 44.452976 Longitude -88.129544

**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)<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.	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.

<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
Wetlands 1, 2, 3, 5	0.80	acre(s)	(b)(1) Non-adjacent wetland.	<p>Based on a review of aerial and ground level photos provided in the delineation report, Wetland 3 is a depressional area in the central portion of an agricultural field. A drainage swale lacking a bed and bank extends outside of the wetland boundary to the east. A review of historical aerial photos (photos taken 05/2018, 06/2017, 04/2015, 05/2011, 11/2010, 09/2008, 09/2006, 09/2005, 05/1992) primarily taken during the wetter months of the year illustrates consistently dry conditions within the area. Topographic maps show a gradual decrease in elevation towards the nearest unnamed tributary approximately 0.56 mile to the southeast of Wetland 3. However, Wetland 3 is confined in place due the immediately adjacent upland areas. This combined with aerial photography and floodplain maps indicate Wetland 3 does not abut the unnamed tributary to the southeast, is not separated from this tributary by natural or man-made barriers, is outside of the 100-year floodplain, and does not receive flooding in a typical year.</p> <p>Based on a review of the topographic map provided in the delineation report, Wetland 5 marks the eastern edge of a topographic decrease in elevation. Aerial and ground level photos provided in the report illustrate the boundaries of Wetland 5 are entirely within the review area and are surrounded by commercial development immediately north, residential development to the southeast, and an upland area immediately west. To the east of the wetland boundary is an upland grassy area and major roadway. A shallow drainage swale lacking a bed and bank extends eastward towards the roadside ditch and a culvert. However, Wetland 5 does not abut this culvert and based on aerial photos previously mentioned, it does not receive flooding in a typical year from the nearest tributary located</p>

<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
				<p>approximately 0.45 mile further southeast beyond the roadway.</p> <p>Based on a review of aerial and ground level photos provided in the delineation report, Wetlands 1 and 2 are in depressional areas and surrounded by uplands including agricultural fields to the north, west, and south, and commercial development immediately east. Historical aerial photos (photos taken 05/2018, 06/2017, 04/2015, 05/2011, 11/2010, 09/2008, 09/2006, 09/2005, 05/1992) primarily taken during the wetter months of the year illustrates consistently dry conditions within the area. Topographic maps show a graduate decrease in elevation towards the nearest unnamed tributary to the east however Wetlands 1 and 2 are confined in place due to the adjacent upland areas. This combined with aerial photography and floodplain maps indicate Wetlands 1 and 2 do not abut the unnamed tributary to the east, are not separated from this tributary by natural or man-made barriers, are outside of the 100-year floodplain, and do not receive flooding in a typical year.</p>
Drainage Swale	50	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on a review of aerial and ground level photos provided in the delineation report, this feature is a shallow drainage swale lacking a bed and bank and is immediately adjacent to uplands to the north and south. No wetland characteristics were reported within the delineation report.

### 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: [NES Ecological Services, Village of Hobart Wetland Delineation Report, 2016](#)

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 site photos](#).
- ☐ 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\(s\)](#).



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- ☐ USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).  
☐ USGS topographic maps: [Title\(s\) and/or date\(s\)](#).

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">N/A.</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local wetland inventory maps</a>	<a href="#">Surface Water Data Viewer, 2020</a>
<a href="#">FEMA/FIRM maps</a>	<a href="#">Flood Hazard Map</a>

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

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