



**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): 11/10/2020

ORM Number: 2020-02175-AJK

Associated JDs: 2017-00036-AJK (March 6, 2020)

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

Center Coordinates of Review Area: Latitude 42.525004 Longitude -87.97152

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-2 W-3	0.01 0.19	acre(s)	(b)(1) Non-adjacent wetland.	W-2 extends outside of the review area south and north of CTH Q. The March 6, 2020 AJD (2017-00036-AJK) concluded that the wetland north of CTH Q (labeled W-4 in that delineation) was non-jurisdictional, and evaluated the area south of CTH Q for a potential connection to a jurisdictional water; none were observed. The area north and south of W-2 was reviewed again to evaluate any changes, but it is still not connected to, and would not be flooded by, an a(1)-a(3) water. The nearest tributary to W-2 and W-3 is approximately 8,500 feet to the east. W-3 extends south of the review area, but based on a review of aerial photography, NWI, WWI, topographic maps, and soils maps, W-3 is surrounded by upland and would not be flooded by an (a)(1)-(a)(3) water in a typical year. There are no natural berms, banks, dunes, or similar natural features physically separating W-2 or W-3 from an (a)(1)-(a)(3) water, and they are not physically separated from an (a)(1)-(a)(3) water by an artificial dike, barrier, or similar artificial structure.
W-1 W-4 W-6	0.12 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).	These features are roadside ditches that were constructed in upland to convey localized runoff. Based on aerial photography, ground level site photographs, National Wetland Inventory, Wisconsin Wetland Inventory, and topographic maps, these ditches carry no more than ephemeral flow and do not relocate a tributary, are not constructed in a tributary, and are not constructed in an adjacent wetland. In the March 6, 2020 AJD (2017-00036-AJK), W-1 was reviewed for possible connections to a water of the U.S. (an a(1)-a(3) water under NWPR) and none were observed.
W-5	0.06	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional	Based on the delineation report, W-5 is a pond constructed sometime between 2016-2017. A review of aerial photographs, soils maps, and topography shows that the site may have exhibited wetland history prior to 2016 based on wet signatures and hydric soil; however, the

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
		water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	wetland was non-adjacent and thus the pond still meets the b(8) exclusion. It is not an impoundment of jurisdictional 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 Hey and Associates, Inc., October 27, 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: Google Earth aerial photographs \(2000-2018\), Street View photographs, ground level site photos from delineation report](#)

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

☒ Previous Jurisdictional Determinations (AJDs or PJDs): [2017-00036-AJK \(March 6, 2020\)](#)

☐ Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

☒ USDA NRCS Soil Survey: [Kenosha County](#)

☒ USFWS NWI maps: [Kenosha County](#)

☒ USGS topographic maps: [Pleasant Prairie Quadrangle, Kenosha 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
FEMA/FIRM maps	FEMA Flood Hazard Zones

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

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