



**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: MVP-2020-02210-ANM

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 44.534619 Longitude -87.864911

**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.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12)). <sup>4</sup> The review area for the following excluded waters are outlined in a red polygon in attached MVP-2020-02210-ANM Figures 1-2.				
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination	
W01	0.06	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.	W01 is a stormwater feature constructed in upland between 2006 and 2008. In 2004, the Corps reviewed and concurred with a Natural Resources Consulting, Inc. wetland delineation report showing the area of W01 to be upland. W01 occurs in an area of non-hydric soil and is not mapped as wetland on the Wisconsin DNR Surface Water Data Viewer. Stormwater construction plans from Foth & Van Dyke in 2004 show that W01 is part of a larger constructed conveyance feature that extends both north and south beyond the project boundary. The conveyance features empty into large stormwater ponds constructed in upland south of W02.
W02	2.09	acre(s)	(b)(1) Non-adjacent wetland.	W02 is a larger wetland complex within the site. In 2004, the Corps reviewed and concurred with a 2004 Natural Resources Consulting Inc. wetland delineation report showing the entire review area as upland. Only a small section in the northeast corner of the site is now mapped as wetland in the Wisconsin DNR Surface Water Data Viewer. 2004 Foth & Van Dyke stormwater construction plans show stormwater conveyances features directly northeast, east, and west of the review area and stormwater ponds to be constructed south of the review area. Aerial photos show that these features, as well as College Park Drive located northwest of W02, were constructed between 2006 and 2008. W02 has likely undergone some level of anthropogenic changes from fill and/or soil mixing from construction of the off-site stormwater features. The stormwater pond south of W02 appears to have an outlet structure that is hydrologically connected to Un Creek south of the pond, but there are no culverts or similar artificial structures that allow for a direct hydrologic surface connection between W02 and (a)(1) – (a)(3) waters. In addition, there is no natural berm, bank, dune, or similar natural

<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.



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)). <sup>4</sup> The review area for the following excluded waters are outlined in a red polygon in attached MVP-2020-02210-ANM Figures 1-2.			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
			features physically separating this wetland from an (a)(1) – (a)(3) 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: 2020 Merjent Inc. wetland delineation report, 2004 Natural Resource Consulting, Inc. wetland delineation map, 2004 Corps wetland delineation concurrence letter, 2004 Foth & Van Dyke stormwater management construction plans

This information is sufficient for purposes of this AJD.

Rationale: N/A or describe rationale for insufficiency (including partial insufficiency).

- ☐ Data sheets prepared by the Corps: Title(s) and/or date(s).
- ☒ Photographs: Aerial: Brown County aerials (1938-2010), Google Earth aerial (1992-2018)
- ☐ 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: 1:24K WI-New Franken

**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	WDNR Surface Water Data Viewer (Wisconsin Wetland Inventory, 24k hydrology flow direction, stream order, and NRCS soil hydric ratings layers), Brown County (hillshade, DEM change from 2000 to 2010, elevation contours, and spot elevation layers)

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

**C. Additional comments to support AJD:** N/A