



**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): 12/23/2020

ORM Number: MVP-2020-02234-MWM

Associated JDs: N/A

Review Area Location¹: State/Territory: WI City: Fond du Lac County/Parish/Borough: Fond du Lac

Center Coordinates of Review Area: Latitude 43.784 Longitude -88.378

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)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
Crossing 1 Crossing 2 Crossing 3 Crossing 4 Crossing 5 Crossing 6 Crossing 7 Crossing 8 Crossing 9 Crossing 10 Crossing 13.1 Crossing 14.2 Crossing 15 Crossing 16 Crossing 17 Crossing 18	.179 .011 .077 .02 .056 .04 .02 .01 .02 .017 .21 .0086 .02 .034 .005 .023	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).	Roadside ditches constructed in uplands. Ditches do not relocate or alter a tributary nor do they satisfy the flow conditions of tributary. Crossings 1, 3, 4, 5, 6, 11, 13.1, and 17 are adjacent to E Johnson St./State Road 23, a major road corridor. Historical aerial photos from 1937 show State Road 23 already constructed, wetness signatures in response to the road were not evident. Between 1937 and 1992, the road was expanded to two lanes and the grade was also increased which resulted in the manmade ditches, there is approximately a 2-foot elevation change from the road to the ditch. Crossings 1, 2, and 3 are adjacent to Wisconsin American Road which was constructed between 1992 and 2002, the ditch is a result of manmade excavation from grading, there were no wetland indicators prior to excavation. Crossings 7, 8, 9, and 10 are adjacent to County Road K which was constructed between 1937 and 1992, historical aerial photos do not show a wetness signature in the area before the road was constructed. Crossings 14.2, 15, 16 and 18 are adjacent to County Road Uu which was constructed between 1937 and 1992. In 1937 aerial photo, there was not a wetness signature before the road was constructed. Aerial photos from 2002 do not show a prominent wetness signature within the ditch and no wetness signature beyond the ditch area.
Crossing 13.2 Crossing 14.1	.006 .103	acre(s)	(b)(1) Non-adjacent wetland.	Wetlands do not abut an a(1)-(3) water nor are they flooded by an a(1)-(3) water in a typical year, the AJD review area is not within a flood zone. The wetlands are not separated from an a(1)-(3) water by a natural or artificial feature. The nearest tributaries are approximately 2,800 feet to the west and approximately 5,600 to the northeast, there is no connection to either feature. There is a minimum of approximately 40 feet in elevation change from the wetlands to either tributary eliminating the possibility of

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
			flooding from the nearest tributary. The wetlands continue NW approximately 300 feet before there are upland indicators surrounding the area. A review of aerial photos show there are no wetness signatures extending past 300 feet NW. Surface Water Data Viewer does not show any wetland signatures past 300 feet. The wetland indicators continue south across State Highway 23 to abut a parking lot, the wetlands continue on the west side of the parking lot for no more than 500 feet.

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: [Dana Halverson, Alliant Energy/Wisconsin Power & Light, 11/4/2020](#)

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	Fond du Lac County Historical Aerial photos, Surface Water Data Viewer, FWS National Wetlands Inventory
Other Sources	N/A.

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

C. Additional comments to support AJD: [The information provided by the applicant identified these estimated features from wetland indicators, specifically hydric soil. The information provided was from Surface Water Data Viewer.](#)