



**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): 12/30/2020

ORM Number: MVP-2020-02263-MWM

Associated JDs: MVP-2011-00689-AIS

Review Area Location<sup>1</sup>: State/Territory: WI City: Oshkosh County/Parish/Borough: Winnebago

Center Coordinates of Review Area: Latitude 43.98508 Longitude -88.62350

**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.	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
Wetland 1	0.179	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 1 does not abut an a(1)-(3) water and isn't inundated by flooding from an a(1)-(3) water in a typical year. The closest tributary has an identified flood zone, and no part of the review area or the surrounding area is in the flood zone. Wetland 1 is not separated from an a(1)-(3) water by a natural or artificial feature nor does it have direct hydrological surface connection in a typical year. Wetland 1 abuts Clairville Road and continues east off the review area to abut a wetland (Wetland 2) which was determined to be a non-jurisdictional wetland (2011-00689-AIS). The justification for the wetland being non-jurisdiction is valid under NWPR, "wetland is not bordering, contiguous with, or neighboring another WOUS". The boundary of the wetland outside the review area continues NE and is completely surrounded by upland. The closest tributary (tributary to Sawyer Creek) is approximately 1,700 feet east of the edge of the wetland boundary outside of the review area. The next closest tributary (Sawyer Creek) is approximately 3,100 feet NW of the wetland within the review area.
Wetland 2 Wetland 3 Wetland 4 Wetland 5 Wetland 6	0.002 0.02 0.008 0.003 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).	Wetlands are ditches constructed in uplands. Wetlands 2, 5, and 6 are roadside ditches which abut Clairville Road. A historical aerial photo from 1937 show the road already constructed and no wetness signature, between 1992 and 2005, the road was upgraded to a two-lane road and the elevation change from the road to the adjacent ditches increased. Wetlands 3 and 4 are manmade ditches at the base of an elevation change caused by manmade grading for a level surface for an industrial building and parking lot. Aerial photo from 1937 does not show a wetness signature before the grading.

**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.

<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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☒ Information submitted by, or on behalf of, the applicant/consultant: [Shyann Banker, Evergreen Consultants LLC, 11/9/2020](#)

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
<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/Tribal Sources</a>	<a href="#">Winnebago County Aerial Photos, Surface Water Data Viewer National Flood Hazard Layer, and FWS National Wetland Inventory</a>
<a href="#">Other Sources</a>	<a href="#">Google Earth Pro 2020</a>

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

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