



**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): 6/7/2021

ORM Number: MVP-2021-00185-MMG

Associated JDs: N/A

Review Area Location¹: State/Territory: Wisconsin City: Oconomowoc County/Parish/Borough: Waukesha

Center Coordinates of Review Area: Latitude 43.0842 Longitude -88.5374

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
Wetland 3 Wetland 4	0.05 0.01	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 3 and Wetland 4 do not abut at least one point or side of an (a)(1)-(3) water. There is no natural berm, bank, dune or similar artificial structure physically separating these wetlands from an (a)(1)-(3) water. The closest mapped water, a tributary to Battle Creek, is approximately 0.1 miles to the southwest of the review area and is at an elevation of 855'. Battle Creek, approximately 0.5 miles to the southwest and at approximately 850', then drains to the Oconomowoc River another 0.5 miles downstream. Wetland 3 and 4 are both within depressions at the 863' elevation contour and do not have inlets or outlets. Elevations increase to 865' around these depressions before declining again as the landscape approaches the tributary to Battle Creek which connects to the Oconomowoc River. Soils map does not indicate the area of Wetland 3 or Wetland 4 to contain hydric soils. Historic aerial imagery shows wet signatures and crop stress within these two depressions in most years going back to 1990 with surrounding farmed landscape appearing consistently dry with no crop stress. Prior to 1990 there does not appear to be any wet signatures or crop stress. Overland sheet flow from the surrounding farmed landscape provides some hydrology to the wetlands. The wetland delineation report provided by SEH, Inc. documents uplands around each of these wetlands. Further evidence based on the U.S. Geological Survey, Waukesha County GIS and National Flood Hazard map showing the distance (0.5 miles) and elevation difference (13') between Wetland 3, Wetland 4 and Battle Creek, confirms these wetlands would not be flooded by an (a)(1)-(3) water in a typical year.

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.

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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- ☒ Information submitted by, or on behalf of, the applicant/consultant: [9740 Valley Road Wetland Delineation Report by SEH, Inc. dated January 25, 2021](#)
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: ground level photos in the report, aerial imagery \(1941, 1950, 1963, 1970, 1980, 1990, 1995, 2000, 2005, 2007, 2008, 2010, 2013, 2015, 2020\)](#)
- ☐ 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: [Waukesha County](#)
- ☐ USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).
- ☒ USGS topographic maps: [1:24K WI-Oconomowoc West](#)

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	Wisconsin Wetland Inventory, Waukesha County GIS 1 foot contour layer, Wisconsin SWDV: Flood Hazard Layer Map
Other Sources	N/A.

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

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