



**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): 8/5/2021

ORM Number: 2021-01119-JLK

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Wisconsin City: Grand Chute County/Parish/Borough: Outagamie

Center Coordinates of Review Area: Latitude 44.298269 Longitude -88.465237

**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.



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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	0.19	acre(s)	(b)(1) Non-adjacent wetland.	Based on a review of aerial and ground level photos provided in the delineation report, Wetland 1 is in a depressional forested/manicured lawn area surrounded by uplands including residential development to the south and east, a paved roadway immediately west, and forested areas and additional residential development including a small pond to the north. A review of historical aerial photos from Google Earth (photos taken 08/2018, 04/2017, 04/2015, 10/2011, 05/2011, 06/2010, 06/2008, 06/2006, 05/2005, 05/1992) primarily taken during the wetter months of the year, and historical aerial photos provided in the delineation report, illustrate mostly dry conditions within the area. The delineation map indicates wetland boundaries extend outside of the review area to the north, however based on a conversation with the delineator, the boundaries are contained along a topographic break approximately 65 feet to the north outside of the review area. Aerial photos provided via Google Earth indicate there is a culvert at the northwestern point of the wetland providing a connection to the west side of the paved roadway. However, the Wisconsin Surface Water Data Viewer depicts no mapped hydric soils on the west side of the roadway and ground level photos (previously mentioned) show the area involves uplands with residential development and manicured lawns. The Wisconsin Surface Water Data Viewer indicates the nearest (a)(1)-(a)(3) water is an unnamed tributary of Mud Creek approximately 0.06 mile to the southeast of Wetland 1. A review of floodplain maps indicates the review area is outside of the mapped floodplain for this tributary and a topographic map provided in the report displays Wetland 1 at an elevation of 806 that decreases to an elevation of 801 towards the tributary. The change in elevation, the lack of a mapped floodplain within the review area,

<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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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
				aerial and ground level photography, all indicate this wetland does not abut the tributary to the southeast, is not separated from this water by natural or man-made barriers, and does not receive flooding in a typical year from this water of the U.S. Therefore, Wetland 1 is a (b)(1) Non-adjacent wetlands which is non-jurisdictional under Section 404 of the Clean Water Act.
Wetland 2	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).	A review of historical aerial photos and ground level photos provided in the delineation report and via Google Earth (photos previously mentioned) indicate this feature is a man-made linear ditch constructed before 1938 and designed to convey water runoff. Furthermore, historical aerial photos indicate consistently dry conditions throughout the years within the area. The wetland delineation map indicates immediately surrounding areas are uplands involving residential development and manicured lawns to the west, southwest, and north. Forested areas are located to the northwest, south, and east. A review of the Wisconsin Wetland Inventory and delineation map illustrates this ditch does not relocate a tributary and was not constructed in a tributary or wetlands. Therefore, Wetland 2 is a (b)(5) Ditch that is not an (a)(1) or (a)(2) water and constructed in uplands, which are non-jurisdictional under Section 404 of the Clean Water Act.

### 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: [Davel Engineering & Environmental, N Capital Ct-Schmidt House, Town of Grand Chute, 2021 Wetland Delineation.](#)

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 and 2019 Site Photos](#)
- ☐ 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\(s\).](#)



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☐ USGS topographic maps: [Title\(s\)](#) and/or [date\(s\)](#).

**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 wetland inventory maps</a>	<a href="#">Wisconsin Wetland Inventory</a>
<a href="#">FEMA/FIRM maps</a>	<a href="#">Floodplain Maps</a>

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

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