



**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): 8/13/2021

ORM Number: 2021-01141-MMG

Associated JDs: N/A

Review Area Location¹: State/Territory: Wisconsin City: City of Mequon County/Parish/Borough: Ozaukee

Center Coordinates of Review Area: Latitude 43.277581 Longitude -88.048549

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
W1 W2	0.08 0.34	acre(s)	(b)(1) Non-adjacent wetland.	W1 and W2 do not abut at least one point or side of an (a)(1)-(3) water. According to site observations by the wetland delineator, 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 is a tributary to Pigeon Creek approximately 0.18 miles to the north across CTH C at an elevation of approximately 876'. As described in the delineation report submitted by Stantec, W1 and W2 are isolated, depressional emergent wetlands that are wholly contained within the review area and lack both an inlet and an outlet. A driveway borders W1 to the east but does not have a culvert connecting to any other water of the U.S. Based on the 1-foot GIS contours layer provided on the delineation map, the boundaries of W1 and W2 are situated within the 883-884' elevation contours. Elevations then rise to approximately 890' to the south, east and west. According to the wetland delineation report, upland vegetation showed a defining break between wetlands and uplands, further supporting a transition to upland as well as separation between W1/W2 from other adjacent wetlands. A conservancy borders the property to the north followed by CTH C. The Wisconsin Wetland Inventory does not include W1 or W2. Based on the Ozaukee County GIS contour map and the National Flood Hazard map showing the distance (0.18 miles) and elevation difference (7-8') between the wetlands and the nearest tributary, 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.

☒ Information submitted by, or on behalf of, the applicant/consultant: [Wetland delineation report dated June 7, 2021 for David Scott and submitted by Stantec Consulting Services, Inc.](#)

This information is sufficient for purposes of this AJD.

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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Rationale: [N/A](#)

- ☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- ☒ Photographs: [Other: Aerial Imagery \(2000 and 2006 from Google Earth\), ground level photos in the delineation report](#)
- ☐ Corps site visit(s) conducted on: [Date\(s\)](#).
- ☐ Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)
- ☐ Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- ☒ USDA NRCS Soil Survey: [Ozaukee County](#)
- ☐ USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).
- ☒ USGS topographic maps: [1:24K Five Corners](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS Topographic Map layer from the WI Surface Water Data Viewer
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	Wisconsin Surface Water Data Viewer, Wisconsin Wetland Inventory, Ozaukee County GIS, National Flood Hazard Layer Map
Other Sources	Google Earth

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

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