



**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): 6/22/2020

ORM Number: 2020-01075-ANM

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 42.676067 Longitude -88.276458

**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>**

191§ 10 Name	§ 10 Size		§ 10 Criteria	Rationale for § 10 Determination
N/A.	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> Review areas for the following excluded waters are outlined in red polygons in attached 2020-01075-ANM Figures 1-7				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
174a-w4	0.31	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 174a-W4 does not abut at least one point or side of a (a)(1)-(a)(3) water. Based on the WDNR Surface Water Data Viewer (SWDV), Kenosha County elevation contours maps, and FEMA map, this wetland would not be flooded by an (a)(1)-(3) water in a typical year. While 174a-W4 may extend beyond the delineated boundaries, LIDAR and contour maps indicate it is not part of a larger wetland complex abutting an (a)(1)-(a)(3) water. There is no natural berm, bank, dune, or similar natural features nor an artificial dike, barrier, or similar artificial structures physically separating this wetland from an (a)(1) – (a)(3) water.
180a-W7	0.08	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 180a-W7 does not abut at least one point or side of a (a)(1)-(a)(3) water. Based on the WDNR Surface Water Data Viewer (SWDV), Kenosha County elevation contours maps, and FEMA map, this wetland would not be flooded by an (a)(1)-(3) water in a typical year. While 180a-W7 may extend north beyond the review area, elevation changes on the contour map indicate it is contained within a larger depression north of the roadway and does not abut an (a)(1)-(a)(3) water. There is no natural berm, bank, dune, or similar natural features nor an artificial dike, barrier, or similar artificial structures physically separating this wetland from an (a)(1) – (a)(3) water.
180-W8a	0.05	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 180a-W8 does not abut at least one point or side of a (a)(1)-(a)(3) water. Based on the WDNR Surface Water Data Viewer (SWDV), Kenosha County elevation contours maps, and FEMA map, this wetland would not be flooded by an (a)(1)-(3) water in a typical year. While 180-W8a may extend south beyond the review area, elevation changes in the contour map indicate it is contained within a depression area south of the roadway and does not abut an (a)(1)-(a)(3) water. There is no natural berm, bank, dune, or similar natural features nor an artificial dike,

<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> Review areas for the following excluded waters are outlined in red polygons in attached 2020-01075-ANM Figures 1-7				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
				barrier, or similar artificial structures physically separating this wetland from an (a)(1) – (a)(3) water.
180a-W9	0.10	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 180a-W9 does not abut at least one point or side of a (a)(1)-(a)(3) water. Based on the WDNR Surface Water Data Viewer (SWDV), Kenosha County elevation contours maps, and FEMA map, this wetland would not be flooded by an (a)(1)-(3) water in a typical year. While 180a-W9 may extend south beyond the review area, elevation changes on the contour map indicate it is contained within a larger depression south of the roadway and does not abut an (a)(1)-(a)(3) water. There is no natural berm, bank, dune, or similar natural features nor an artificial dike, barrier, or similar artificial structures physically separating this wetland from an (a)(1) – (a)(3) water.
191a-W2	0.05	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 191a-W2 does not abut at least one point or side of a (a)(1)-(a)(3) water. It is located several hundred feet east of the Des Plaines River, and based on the WDNR Surface Water Data Viewer (SWDV), Kenosha County elevation contours maps, and FEMA map, this wetland would not be flooded by an (a)(1)-(3) water in a typical year. The contour map and wetland delineation field notes show that the wetland is located within a small hardwood swamp depression. There is no natural berm, bank, dune, or similar natural features nor an artificial dike, barrier, or similar artificial structures physically separating this wetland from an (a)(1) – (a)(3) water
192a-W3	0.35	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 192a-W3 does not abut at least one point or side of a (a)(1)-(a)(3) water. Based on the WDNR Surface Water Data Viewer (SWDV), Kenosha County elevation contours maps, and FEMA map, this wetland would not be flooded by an (a)(1)-(3) water in a typical year. Wetland 192a-W3 appears to abut a drainageway that was constructed in upland when the Great Lakes Dragaway was constructed, sometime before 1963. The drainageway flows south into an intermittent tributary of the Des Plaines River. There is no natural berm, bank, dune, or similar natural features nor an artificial dike, barrier, or



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Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
				similar artificial structures physically separating this wetland from an (a)(1) – (a)(3) water
193a-W2	1.55	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 193a-W2 does not abut at least one point or side of a (a)(1)-(a)(3) water. Based on the WDNR Surface Water Data Viewer (SWDV), Kenosha County elevation contours maps, and FEMA map, this wetland would not be flooded by an (a)(1)-(3) water in a typical year. 193a-W2 may be part of a larger wetland complex that could extend both north and south of the delineated boundary and review area. The wetland likely drains west and southwest towards 193a-S3, which is an ephemeral tributary. There is no natural berm, bank, dune, or similar natural features nor an artificial dike, barrier, or similar artificial structures physically separating this wetland from an (a)(1) – (a)(3) water.
193a-S3	80	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	193a-S3 is part of an ephemeral tributary that flows southwest into an intermittent tributary towards the Des Plaines River. Based on Kenosha County aerial photos from 1937 to 2015, the feature does not have a defined channel or surface water in most years. A defined channel is not visible in a Google Earth ground level photo. 193a-S3 appears to be a swale feature in an agricultural field that only has surface water as a direct response to precipitation.
197a-W2	1.68	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 197a-W2 does not abut at least one point or side of a (a)(1)-(a)(3) water. Based on the WDNR Surface Water Data Viewer (SWDV), Kenosha County elevation contours maps, and FEMA map, this wetland would not be flooded by an (a)(1)-(3) water in a typical year. 197a-W2 appears to be part of a larger wetland complex and extend both east and southeast of the delineated boundary. However, elevation changes on the contour map indicates it is contained within a larger depression and does not abut an (a)(1)-(a)(3) water. There is no natural berm, bank, dune, or similar natural features nor an artificial dike, barrier, or similar artificial structures physically separating this wetland from an (a)(1) – (a)(3) water.
N/A.	N/A.	N/A.	N/A.	N/A.



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**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: [Stantec Wetland Delineation report \(November 26, 2018 and Revised: January 24, 2020\)](#)

This information [Select.](#) sufficient for purposes of this AJD.

Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\).](#)

☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

☒ Photographs: [Aerial: Kenosha County aerials](#)

☐ 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\(s\).](#)

☐ 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="#">MVPMMap Portal (LIDAR layer)</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">WDNR Surface Water Data Viewer (Wisconsin Wetland Inventory, 24K hydro, FEMA layers)</a>
<a href="#">Other Sources</a>	<a href="#">Kenosha County aerial and contour maps</a>

**B. Typical year assessment(s):** [N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.](#)

**C. Additional comments to support AJD:** [N/A or provide additional discussion as appropriate.](#)