



**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): 1/8/2021

ORM Number: MVP-2019-01430-BGO

Associated JDs: N/A

Review Area Location¹: State/Territory: Minnesota City: Cannon Falls and Zumbrota

County/Parish/Borough: Goodhue County

Center Coordinates of Review Area: Latitude 44.477938 Longitude -92.904859

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.	

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.	

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.	

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.	

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 The review area for this determination is limited to the delineated boundaries of four wetlands labeled as Wetland 10, 19, 20 and 31, and 48 ditches labeled as Wet Ditch 1-6, 8-36, 39-44, 47, 49-53 and 56 on the attached figures labeled as 2019-01430-BGO MnDOT SP 2506-83/TH 52 AJD Attachments, Pages 1-71 of 71. All the labels for these waters are also highlighted in yellow on the attached figures.

Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland 10, Wetland 31 Sheet No. 34-35 of 70	1.69	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetlands 10 and 31 are in the southeast quadrant of the TH 52/CSAH 8 intersection in Hader and are part of a larger NWI mapped area that extends north to Wetland 11, which is adjacent to an unnamed tributary to Belle Creek (OAR 8). This entire area was investigated during the delineation and field review of the project, and it was determined that Wetlands 10 and 31 are two isolated wetland basins that are physically separated from Wetland 11 and OAR 8. Both wetlands are surrounded by uplands and do not have a direct surface hydrologic connection to potential downstream waters.</p> <p>Based on this review, Wetlands 10 and 31 are not jurisdictional under the Navigable Waters Protection Rule because they meet the requirements of the exclusion for non-adjacent wetlands under paragraph (b)(1). The assessed wetlands do not abut jurisdictional waters, are not inundated by flooding from a traditional navigable water, or tributary, or from a jurisdictional lake, pond, or impoundment, and are not physically separated from a jurisdictional water by only a natural feature or artificial structure that allows for a direct hydrologic surface connection. This was confirmed by reviewing the data sources in Section III.A.</p>
Wetland 19, Wetland 20 Sheet No. 61-62 of 70	1.89	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetlands 19 and 20 are two separate wetland areas located on the west side of TH 52 in Cannon Falls. USGS Topographic Quads and 2-foot LIDAR contours indicate that both wetlands drain northeast and may convey flows to Wetland 1, which is adjacent to an unnamed tributary to the Little Cannon River. Both areas were investigated during the delineation and it was determined that these flow paths are primarily overland flow on hillslopes and include</p>

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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Excluded waters ((b)(1) – (b)(12)):⁴ The review area for this determination is limited to the delineated boundaries of four wetlands labeled as Wetland 10, 19, 20 and 31, and 48 ditches labeled as Wet Ditch 1-6, 8-36, 39-44, 47, 49-53 and 56 on the attached figures labeled as 2019-01430-BGO MnDOT SP 2506-83/TH 52 AJD Attachments, Pages 1-71 of 71. All the labels for these waters are also highlighted in yellow on the attached figures.

Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				<p>several upland breaks separating Wetlands 19 and 20 from potential downstream waters. No defined channels were observed during the field review and it was determined that runoff from both wetlands dissipates at the bottom of the slope and does not flow directly into Wetland 1.</p> <p>Based on this review, Wetlands 19 and 20 are not jurisdictional under the Navigable Waters Protection Rule because they meet the requirements of the exclusion for non-adjacent wetlands under paragraph (b)(1). The assessed wetlands do not abut jurisdictional waters, are not inundated by flooding from a traditional navigable water, or tributary, or from a jurisdictional lake, pond, or impoundment, and are not physically separated from a jurisdictional water by only a natural feature or artificial structure that allows for a direct hydrologic surface connection. This was confirmed by reviewing the data sources in Section III.A.</p>
<p>Wet Ditch 1-6, 8-36, 39-44, 47, 49-53 and 56</p> <p>Sheet No. 5, 8-9, 13-16, 21, 26, 31, 34, 36, 43-44, 46-47, 53-56, 65-66 and 69-70 of 70</p>	3.75	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).	<p>Wet Ditch 1-6, 8-36, 39-44, 47, 49-53 and 56 were constructed in uplands to convey runoff from the adjacent roadway and agricultural fields, and are now linear wetlands that meet the definition of “ditch” under paragraph (c)(2). In addition, the ditches are not (a)(1) waters, are not relocated tributaries, are not constructed in a tributary, and are not constructed in an adjacent wetland. This was confirmed by reviewing aerial photography, national hydrography data, and the wetland delineation report. Based on this review, the assessed ditches are not jurisdictional under the Navigable Waters Protection Rule because they meet the requirements of the exclusion for ditches under paragraph (b)(5).</p>

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: MnDOT SP 2506-83/TH 52 Joint Application Form, September 2020 and Final Wetland Delineation Report, October 2020



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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: 2017 FSA and Google Earth Imagery, 1991-2020**
- ☐ 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: **Title(s) and/or date(s)**.
- ☒ USFWS NWI maps: **USFWS NWI of MN, 1974-1978**
- ☒ USGS topographic maps: **1:24k DRG – Sogn, 2003**

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS/WBD/NHD data/maps	NHD – High Resolution – MN, 2015
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local wetland inventory maps	DNR NWI Update – MN, 2010-2018
Other Sources	2-Foot Contours Minnesota (LIDAR Service)

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

C. Additional comments to support AJD: **N/A**