



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): May 24, 2021

ORM Number: MVP-2012-03316-EJW

Associated JDs: N/A

Review Area Location¹:

State/Territory: MN City: Maple Grove County/Parish/Borough: Hennepin County

Center Coordinates of Review Area: Latitude 45.13906 Longitude -93.464573

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)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 independent 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.

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland 1	9.72 acres	(b)(1) Non-adjacent wetland	The nearest (a1-a3) waters are Elm Creek (0.50 miles east of the AJD review area) and Rush Creek (0.57 mile north of the AJD review area). As the delineation report shows and a review of aerial imagery confirms, Wetlands 2-5 and 7 have no surface connection to the ditch and are surrounded entirely by uplands. Wetlands 6, 6a, 6b, 6c, and 6d are all adjacent to Wetland 1 which appears to have a connection to the ditch on the northern boundary of the project area. The unnamed ditch continues east, ultimately connecting to Elm Creek. A review of historic aerial imagery shows that the ditch did not exist in 1937, but was constructed sometime prior to 1957 and that the AJD review area was not previously wetlands adjacent to Elm Creek. This is also confirmed by USGS Topoview maps from 1902 showing the review area and area adjacent to it as uplands. Soils maps of Hennepin County show the surrounding area listed as Partially Hydric soils. These soil maps along with historical aerial imagery indicate that the area was not previously adjacent wetland where the ditch was constructed. Historic aerial imagery and the 1902 Topoview map also show that the ditch was not constructed to relocate a tributary. Wetlands 1-6, 6a, 6b, 6c, 6d, and 7 are not adjacent wetlands or waters of the US (WOUS) and are not jurisdictional under the NWPR.
Wetland 2	0.02 acres	(b)(1) Non-adjacent wetland	
Wetland 3	0.12 acres	(b)(1) Non-adjacent wetland	
Wetland 4	0.02 acres	(b)(1) Non-adjacent wetland	
Wetland 5	0.07 acres	(b)(1) Non-adjacent wetland	
Wetland 6	1.14 acres	(b)(1) Non-adjacent wetland	
Wetland 6A	0.09 acres	(b)(1) Non-adjacent wetland	
Wetland 6B	0.25 acres	(b)(1) Non-adjacent wetland	
Wetland 6C	0.13 acres	(b)(1) Non-adjacent wetland	
Wetland 6D	0.14 acres	(b)(1) Non-adjacent wetland	
Wetland 7	0.01 acres	(b)(1) Non-adjacent wetland	

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 Xcel Energy Elm Creek Substation (November 2020) by HDR Engineering
This information (is and is not) sufficient for purposes of this AJD.
Rationale: Historical aerial imagery, topographic maps, as well as offsite soil survey maps were reviewed to determine if a drainage ditch was constructed in uplands or wetlands.
Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- ☒ Photographs: (*aerial*) MHAPO 1937, 1957, and 1964
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: Hennepin County Soil Survey
USFWS NWI maps: *Title(s) and/or date(s)*.

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 X USGS topographic maps: USGS Topoview 1902

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	N/A.
Other Sources	N/A.

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

C. Additional comments to support AJD: N/A

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