



**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): 2/24/2021

ORM Number: MVP-2020-01788-SSC

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: MN City: St. Cloud County/Parish/Borough: Stearns

Center Coordinates of Review Area: Latitude 45.52935 Longitude -94.19343

**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)<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
Wetlands 1 (basin portion), 4, 12, and 13	Total = 0.2257	acre(s)	(b)(1) Non-adjacent wetland.	Wetlands 1, 4, 12, and 13 are located adjacent to County Road (CR) 136. Wetlands 1 and 13 extend offsite to the west. Wetland 1 also extends into a roadside as part of a linear ditch feature alongside CR 136. All of the wetlands are mapped on the National Wetland Inventory. MnTOPO lidar 2-foot contours were viewed and align with the delineated wetlands. Wetlands 4 and 12 are surrounded by upland and Wetlands 1 and 13 are generally at the same elevation as the immediate surroundings. Additionally, the SoilWeb layer was utilized in Google Earth and showed that the forested region that Wetlands 1 and 13 reside in is surrounded by varying soil types that are not hydric. Review of the National Hydrography Dataset and Google Earth Imagery (May 2016 and May 2015) do not show these wetlands sharing a surface water connection to an a(1)-a(3) water. Based on this information, Wetlands 1 (basin portion), 4, 12, and 13 are not waters of the U.S. under the Navigable Waters Protection Rule (NWPR).
Wetland 1 (wet ditch portion)	0.1826	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).	Wetland 1, partially discussed above, also consists of a wet ditch feature, referenced here as Wet Ditch 1. The majority of the ditch feature was constructed in upland to convey runoff from CR 136. Review of SoilWeb layers in Google Earth have the soil mapped primarily as Sverdrup sandy loam, Sandy Outwash, 0 to 2 percent slopes (well drained, not hydric). The southern part of the feature was constructed in wetland but that wetland (as described above) is not jurisdictional. Review of MHAPO imagery from 1938 show a wet signature where the Wetland 1 basin portion was currently delineated. The adjacent roadway does not show wet signature to the north or south of the Wetland 1 basin. Based on this information, Wet Ditch 1 is not a water of the U.S. under the NWPR.

<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	Acre(s)	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Wetlands 2 and 3 (wet ditch portions)	Total = 0.0076		(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).	The northern portion of Wetland 2 is mapped in hydric, poorly drained soils, according to SoilWeb. The southern portion of Wetland 2 as well as Wetland 3 are mapped in non-hydric soils that are well/excessively drained. Both wetlands are connected via culvert that runs under CR 136 to Wetlands 1 and 4 (both are not jurisdictional as discussed above). The portions under review are noted as Wet Ditch 2 and Wet Ditch 3 on the attached figures. The wetlands were partially constructed in uplands while the other portions were constructed in wetlands that are not jurisdictional wetlands. Based on this information, Wet Ditch 2 and 3 are not waters of the U.S. under the NWPR.
Wetlands 5 and 6 (wet ditch portions)	Total = 0.1431		(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).	Wetlands 5, 6, and 7 consists of a linear ditch feature as well as a basin feature. The area of review for the listed wetlands is the wet ditch portions marked on the attached figures. Northern portions of wet ditches 5 and 6 are mapped in Litchfield loamy sand which is moderately well drained and not characterized as hydric soil. Historic aerial imagery from 1938 does not show a wet signature in this area. These portions of Wet Ditch 5 and 6 were constructed in upland and are therefore not jurisdictional.
Wetlands 9 and 10 (wet ditch portions)	Total = 0.0948		(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).	Wetland 9 is mapped in primarily Sverdrup sandy loam, Sandy Outwash, 2 to 6 percent slopes (well drained and not hydric). Wetland 10 is mapped in Darfur coarse sandy loam (poorly drained, hydric). Both wetlands do not share a surface water connection to an a(1)-a(3) water as supported by review of Google Earth images (May 2016, May 2015, September 2013). Wetland 10 is delineated along the 2-foot contour lines and is surrounded by upland. Wetland 9 is located at the toe-of-slope of CR 136. No outlet or inlet was visible in aerial imagery for Wetland 10. Wetland 9 appears to have a connection through a driveway culvert to non-wetland area (based off of the delineation report) Based on this information, the portions of Wetland 9 and 10 that are marked as Wet Ditch on the attached figures are not waters of the U.S. under the NWPR.

**III. SUPPORTING INFORMATION**



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**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: [County Road 136 Improvements Wetland Delineation Report dated August 2020](#)

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: Google Earthy Imagery: May 2016, May 2015, September 2013; Minnesota Historical Aerial Photographs Online \(MHAPO\): 1938](#)

☐ 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: [SoilWeb layers in Google Earth, viewed February 9, 2021](#)

☐ 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="#">N/A.</a>
<a href="#">LiDAR data/maps</a>	<a href="#">MnTOPO lidar 2-foot contours viewed February 9, 2020</a>
<a href="#">Other Sources</a>	<a href="#">N/A.</a>

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

**C. Additional comments to support AJD:** [The Technical Evaluation Panel \(TEP\) also determined in their Notice of Decision dated January 28, 2021, that the areas labeled "wet ditch" were delineated correctly and deemed "incidental".](#)