



**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): 2/9/2021

ORM Number: MVP-2020-02453-SSC

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 45.192770 Longitude -93.668114

**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, 3, 4, 5, 6, 7, and 8	Total = 1.373	acre(s)	(b)(1) Non-adjacent wetland.	The wetlands listed are found within an area consisting of agricultural field and cattle pasture. A review of Google Earth Imagery and the National Hydrography Dataset (NHD) does not show a surface water connection to an a(1)-a(3) water. Due to the lack of adjacency to an a(1)-a(3) water Wetlands 1, 3, 4, 5, 6, 7, and 8 are not waters of the U.S. under the Navigable Waters Protection Rule.
Wetland 2	0.79	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 2 is a partially farmed wet meadow and shallow marsh wetland as described in the wetland delineation report. The wetland drains to the east under Labeaux Ave NE via a culvert. Wetland 2 does not have a direct hydrologic connection via the culvert in a typical year, as discussed below in Section III. B. Additionally, MnTOPO 2-foot contours show that Wetland 2 is surrounded by upland. Based on this information, Wetland 2 is not a water of the U.S. under the Navigable Waters Protection Rule.

**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: 2731 Labeaux Ave NE Site Wetland Delineation Report dated December 16, 2020 and Lakeshore Park Wetland Permit Application dated January 12, 2021

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 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: Title(s) and/or date(s).
- ☐ USGS topographic maps: Title(s) and/or date(s).

**Other data sources used to aid in this determination:**

<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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Data Source (select)	Name and/or date and other relevant information
USGS/WBD/NHD data/maps	The National Map – NHD layers viewed February 8, 2021
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
Other state/local data (specify)	MnTOPO viewed February 8, 2021 Wright County, MN GIS (Beacon) viewed February 8, 2021
Other Sources	N/A.

**B. Typical year assessment(s):** Google Earth and Wright County GIS images of the review area were reviewed for several dates including: October 2020, May 2017, June 2016, and April 17, 2006. The Antecedent Precipitation Tool (APT) was utilized to determine the precipitation conditions from those dates. The tool generated an output figure for each that determined the following: October 2020: drier than normal conditions, May 2017: normal conditions, June 2016: normal conditions, April 2006: normal conditions. All of the aerial images did not show any water flow through the culvert. These findings support that the wetland does not share a direct hydrologic surface connection in a typical year via the culvert.

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