



**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): 3/1/2021

ORM Number: MVP-2015-01226-ARC

Associated JDs: N/A

Review Area Location¹: State/Territory: Minnesota City: Biwabik County/Parish/Borough: St. Louis

Center Coordinates of Review Area: Latitude 47.4984 Longitude -92.3966

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 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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland 1	0.0029	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 1 consists of a very small depressional basin surrounded by Highway 4 to the east, Old Highway 8 to the north, and Depot Road to the south and does not contain an outlet. Precipitation flows from the surrounding upland roadways into the small basin where it pools and slowly filters into the water table; there is no outflow and does not contribute a surface flow directly or indirectly to an (a)(1) water.
Wetland 3	0.0507	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 3 consists of a ditch excavated in uplands to contain the precipitation runoff from Maple Drive to the south. This ditch was excavated in uplands, does not contain permanent or intermittent flow, does not relocate a tributary, was not constructed in a tributary, and was not constructed in an (a)(4) adjacent wetland.
Wetland 5B	0.0240	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 5B consists of a man-made ditch excavated in uplands to contain the precipitation runoff from Highway 135 to the west as well as hydrology from the large coniferous bog to the west of the highway. This ditch does contain intermittent flow, however, was excavated in uplands, does not relocate a tributary, was not constructed in a tributary, and was not constructed in an (a)(4) adjacent wetland. Therefore, is not considered a Water of the U.S.
Wetland 9A	0.0408	acre(s)	(b)(1) Non-adjacent wetland	Wetland 9A is a small depressional basin surrounded by upland and does not contain an outlet. Precipitation flows from the surrounding upland into the basin where it pools and slowly filters into the water table; there is no outflow and does not contribute a surface flow directly or indirectly to an (a)(1) water.

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
Wetland 10C	0.0445	acre(s)	(b)(1) Non-adjacent wetland	Wetland 10C is a small depressional basin surrounded by upland and does not contain an outlet. Precipitation flows from the surrounding upland into the basin where it pools and slowly filters into the water table; there is no outflow and does not contribute a surface flow directly or indirectly to an (a)(1) water.
Wetland 11B	0.1363	acre(s)	(b)(1) Non-adjacent wetland	Wetland 11B is a wetland basin confined by a railroad grade to the west, Mesabi Trail to the east, Highway 135 to the north and upland landscape to the south. It does not contain an outlet. Precipitation flows from the surrounding upland features into the basin where it pools and slowly filters into the water table; there is no outflow and does not contribute a surface flow directly or indirectly to an (a)(1) water.
Wetland 11C	0.0198	acre(s)	(b)(1) Non-adjacent wetland	Wetland 11C is a very small depressional basin surrounded by upland and does not contain an outlet. Precipitation flows from the surrounding upland into the basin where it pools and slowly filters into the water table; there is no outflow and does not contribute a surface flow directly or indirectly to an (a)(1) water.
Wetland 11D	0.0130	acre(s)	(b)(1) Non-adjacent wetland	Wetland 11D is a small depressional basin surrounded by upland and does not contain an outlet. Precipitation flows from the surrounding upland into the basin where it pools and slowly filters into the water table; there is no outflow and does not contribute a surface flow directly or indirectly to an (a)(1) water.

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: [SEH Delineation Report - 2020, updated memo provided following site visit](#)

This information is 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: [Other: SEH Delineation Photo Documentation](#)

☒ Corps site visit(s) conducted on: [September 14, 2020](#)

☐ 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\(s\).](#)



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

- ☒ USFWS NWI maps: [USFWS NWI mapping](#)
☐ 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
USGS Sources	N/A.
USDA Sources	The National Map Viewer
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 or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.](#)

C. Additional comments to support AJD: [The Corps, along with the local Technical Evaluation Panel \(TEP\), performed a site visit on September 14, 2020 and only required a few small wetland boundary changes. The agent provided those changes in a delineation memo on October 16, 2020. The TEP performed another site visit in November and found the wetland boundaries to be accurately depicted.](#)

[Wetlands 1, 9A, 10C, 11B, 11C, and 11C are not abutting a water identified in paragraph \(a\)\(1\)-\(a\)\(3\) of the NWPR, are not contributing a surface water flow directly or indirectly to an \(a\)\(1\) water, and are not inundated by flooding from an \(a\)\(1\)-\(a\)\(3\) water in a typical year. Wetland 3 and 5B are not \(a\)\(1\) or \(a\)\(2\) waters, were not constructed in an \(a\)\(4\) water, do not relocate tributaries, were not constructed in tributaries and were not constructed in an adjacent wetland. All 8 wetlands meet the exclusions as defined in the NWPR.](#)