



**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): 2/22/2021

ORM Number: MVP-2021-00199-SSC

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: MN City: Shaokatan Township County/Parish/Borough: Lincoln

Center Coordinates of Review Area: Latitude 44.375878 Longitude -96.359858

**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.	

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.	

<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
Reach 1 (northern reach of Ditch 1)	2,551	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Reach 1 is the northern reach of Ditch 1, which drains south into Norwegian Creek and downstream into the Minnesota River, a navigable water of the U.S. (via Coon Creek and the Redwood River). A historic aerial image from 1938 does not show Reach 1 as a clearly identifiable feature. Google Earth imagery from May 1992 shows Reach 1 as an erosional drainage feature. More current imagery (May 2003 to Present) show the feature as having a more defined channel. However, review of aerial images does not show any surface water flow within Reach 1. A typical year assessment was completed using the Antecedent Precipitation Tool (APT) to determine the flow regime of Reach 1. This review is discussed below in Section III. B. Based on this information and the typical year assessment, Reach 1 is determined to be ephemeral and is therefore 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: **Title(s) and date(s)**  
This information **Select.** sufficient for purposes of this AJD.  
Rationale: **N/A**
- ☐ Data sheets prepared by the Corps: **Title(s) and/or date(s).**
- ☒ Photographs: **Aerial: MHAPO: 1938; Google Earth: May 1992, May 2003-Present**
- ☐ 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 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):** Google Earth Imagery was reviewed for Reach 1 for several dates including: May 1992, May 2003, August 2004, May 2006, May 2008, June 2009, June 2010, October 2012, and August 2015. The APT was utilized to determine the precipitation conditions from those dates. The tool generated an output figure for each that determined the following: May 1992: normal conditions, May 2003: normal conditions, August 2004: wetter than normal, May 2006: normal conditions, May 2008: drier than normal, June 2009: normal conditions, June 2010: normal conditions, October 2012: drier than normal, August 2015: wetter than normal. May 2006 shows some slight wet signature in a southern portion of Reach 1 but the rest of the imagery does not show any surface water within the channel. These findings are consistent with a stream flowing only in direct response to precipitation and is therefore ephemeral.

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