



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): July 8, 2021

ORM Number: MVP-2021-01040-EJW

Associated JDs: N/A

Review Area Location<sup>1</sup>:

State/Territory: MN City: Independence County/Parish/Borough: Hennepin County

Center Coordinates of Review Area: Latitude 45.017024 Longitude -93.741856

**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)<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 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.

<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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**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
Ephemeral Swale 1	46 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The nearest (a)(1)-(a)(3) waters are Lake Sarah, approximately 1.07 miles northeast of the AJD Review Area and Pioneer Creek, located approximately 0.91 miles south of the AJD Review Area. The delineation confirms that W-B and W-C have no surface connection to Lake Sarah or Pioneer Creek and are entirely surrounded by uplands. A review of offsite aerial imagery shows that W-E continues offsite, but lacks a surface water connection to any water of the US (WOUS). W-A continues offsite to the north to an open water wetland complex, but the LIDAR in the delineation shows a berm along the eastern boundary of the complex that severs any jurisdictional connection. The agent confirmed that he had walked the berm onsite and did not see any culverted connection through the berm. Ephemeral Swales 1 and 2 only have water in direct response to rain so they are not jurisdictional waters under the NWPR. W-A, W-B, W-C, and W-E are defined as non-adjacent wetlands and are not jurisdictional WOUS under the NWPR.
Ephemeral Swale 2	124 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	
W-A	0.05 acres	(b)(1) Non-adjacent wetland	
W-B	3.04 acres	(b)(1) Non-adjacent wetland	
W-C	0.19 acres	(b)(1) Non-adjacent wetland	
W-E	1.35 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 2076 Copeland Road by Stantec (5/10/2021)  
This information (is and is not) sufficient for purposes of this AJD.  
Rationale: Aerial imagery was used to determine if some of the wetlands had connections to any WOUS offsite.
- ☐ Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- ☒ Photographs: (aerial) Google Earth 1991-2021
- ☐ 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: USFWS NWI Map
- ☒ USGS topographic maps: 1:24K Rockford

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

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.

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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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