



**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): 2/2/2021

ORM Number: MVP-2020-02249-SRK

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Minnesota City: McKinley County/Parish/Borough: St. Louis

Center Coordinates of Review Area: Latitude 47.523132 Longitude -92.383253

**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	
LR-04	3.99	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	LR-04 has a surficial connection to an (a)(3) water, White Lake, which is connected to a tributary of the Embarrass River.

<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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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
LR-07A LR-07B	24.82 0.26	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	LR-07A and LR-07B is a wetland complex that has a surficial connection to an (a)(3) water, White Lake, which is connected to a tributary of the Embarrass River.
LR-08A LR-08B	2.10 1.00	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	LR-08A and LR-08B has a surficial connection to an (a)(3) water, White Lake, which is connected to a tributary of the Embarrass River.
ER-05	1.16	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	ER-05 has a direct connection to an (a)(2) tributary of the Embarrass River. The connection is maintained by culverts and is not severed by artificial berms or roads.
ER-06A ER-06B	21.40 17.84	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	ER-06A and ER-06B is a wetland complex that has a direct connection to an (a)(2) tributary of the Embarrass River. The connection is maintained by culverts and is not severed by artificial berms or roads.
ER-14A ER-14B	1.47 82.50	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	ER-14A and ER-14B is a wetland complex that has a direct connection to an (a)(2) tributary of the Embarrass River. The connection is maintained by culverts and is not severed by artificial berms or roads.
ER-15B ER-15C ER-15D ER-15E ER-15F	1.29 9.82 5.26 1.61 3.63	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	ER-15B, ER-15C, ER-15D, ER-15E, ER-15F is a wetland complex that has a direct connection to an (a)(2) tributary of the Embarrass River. The connection is maintained by culverts and is not severed by artificial berms or roads.

**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
L-1	1.04	acre(s)	(b)(1) Non-adjacent wetland.	L-1 is a geographically isolated basin not adjacent to any (a)(1)-(a)(3) waters. The basin is further isolated by constructed road berms.
L-2	0.09	acre(s)	(b)(1) Non-adjacent wetland.	L-2 is a geographically isolated basin not adjacent to any (a)(1)-(a)(3) waters. The basin is further isolated by constructed road berms.
TB-1	0.08	acre(s)	(b)(1) Non-adjacent wetland.	TB-1 is an isolated wetland not adjacent to any (a)(1)-(a)(3) waters. Any potential connection has been severed by road berms created from mining activities.
TB-2	3.29	acre(s)	(b)(1) Non-adjacent wetland.	TB-2 is an isolated wetland not adjacent to any (a)(1)-(a)(3) waters. Any potential connection

<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	Exclusion <sup>5</sup>	Rationale for Exclusion Determination	
			has been severed by road berms created from mining activities.	
TB-3	0.53	acre(s)	(b)(1) Non-adjacent wetland.	TB-3 is an isolated wetland not adjacent to any (a)(1)-(a)(3) waters. Any potential connection has been severed by road berms created from mining activities.
TB-4	0.19	acre(s)	(b)(1) Non-adjacent wetland.	TB-4 is an isolated wetland not adjacent to any (a)(1)-(a)(3) waters. Any potential connection has been severed by road berms created from mining activities.
TB-5	1.40	acre(s)	(b)(1) Non-adjacent wetland.	TB-5 is an isolated wetland not adjacent to any (a)(1)-(a)(3) waters. Any connection has been severed by road berms created from mining activities.
TB-6	1.66	acre(s)	(b)(1) Non-adjacent wetland.	TB-6 is an isolated wetland not adjacent to any (a)(1)-(a)(3) waters. The wetland is surrounded by upland at the bottom of a topographic low. TB-6 lies within a closed depression, bordered by a 15-25 foot high tailings basin road berm on the north side. The natural overflow point lies approximately 11 feet above the wetland boundary to the northeast.
TB-7a TB-7b TB-7c	7.99 1.82 15.85	acre(s)	(b)(1) Non-adjacent wetland.	TB-7a, TB-7b and TB-7c is part of a large wetland complex that flows toward the north where it is impounded by a mining road and tailing basin. The larger basin appears to continue to the south outside of the study area where it ends at a large stockpiling area.
TB-8	1.49	acre(s)	(b)(1) Non-adjacent wetland.	TB-8 is an isolated wetland not adjacent to any (a)(1)-(a)(3) waters. Topographically there is no connection to a larger wetland complex. Any connection to the East has been severed by road berms created from mining activities.
TB-9a TB-9b TB-9c	7.89 3.94 1.26	acre(s)	(b)(1) Non-adjacent wetland.	TB-9a, TB-9b, TB-9c is an isolated wetland complex not adjacent to any (a)(1)-(a)(3) waters. Topographically there is no connection to a larger wetland complex. Any connection to the East has been severed by road/tailings basin berms.
LR-01	0.36	acre(s)	(b)(1) Non-adjacent wetland	LR-01 is an isolated wetland surrounded by road berms as a result from mining activities severing any connection to an (a)(1)-(a)(3) water.
LR-02	0.10	acre(s)	(b)(1) Non-adjacent wetland	LR-02 is an isolated wetland surrounded by road berms as a result from mining activities severing any connection to an (a)(1)-(a)(3) water.
LR-03A LR-03B	0.15 1.01	acre(s)	(b)(1) Non-adjacent wetland	LR-03A, LR-03B, LR-03C, LR-03D and LR-03E is an isolated wetland complex surrounded by



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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
LR-03C LR-03D LR-03E	1.67 5.32 0.68			road berms as a result from mining activities severing any connection to an (a)(1)-(a)(3) water.
LR-05	0.89	acre(s)	(b)(1) Non-adjacent wetland	LR-05 is an isolated depressional wetland surrounded by uplands with no inlet or outlets.
LR-06A LR-06B	0.77 0.48	acre(s)	(b)(1) Non-adjacent wetland	LR-06A and LR-06B is an isolated wetland complex surrounded by road berms as a result from mining activities severing any connection to an (a)(1)-(a)(3) water.
LR-09	0.60	acre(s)	(b)(1) Non-adjacent wetland	LR-09 is a geographically isolated basin with no surficial connection to an (a)(1)-(a)(3) water.
LR-10A LR-10B LR-10C LR-10D LR-10E	1.21 2.55 0.68 0.09 0.48	acre(s)	(b)(1) Non-adjacent wetland	LR-10A, LR-10B, LR-10C, LR-10D and LR-10E is a geographically isolated wetland basin with no surficial connection to an (a)(1)-(a)(3) water.
LR-11A LR-11B	3.79 1.14	acre(s)	(b)(1) Non-adjacent wetland	LR-11A and LR-11B is a geographically isolated wetland basin with no surficial connection to an (a)(1)-(a)(3) water.
LR-12	1.42	acre(s)	(b)(1) Non-adjacent wetland	LR-12 is an isolated wetland surrounded by road berms as a result from mining activities severing any connection to an (a)(1)-(a)(3) water.
ER-01	0.05	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).	ER-01 is a portion of ditch that was excavated within uplands and is not an (a)(1) or (a)(2) water. The wetland is surrounded by upland and there is no surface water connection to any (a)(1)-(a)(3) waters.
ER-02	0.60	acre(s)	(b)(1) Non-adjacent wetland	ER-02 is a geographically isolated basin with no surficial connection to an (a)(1)-(a)(3) water.
ER-03	0.04	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).	ER-03 is a portion of ditch that was excavated within uplands and is not an (a)(1) or (a)(2) water. The wetland is surrounded by upland and there is no surface water connection to any (a)(1)-(a)(3) waters.
ER-04A	0.59	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and	ER-04A is a linear feature that meets wetland criteria and based on surrounding topography,



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Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
		those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	soils, historic imagery and lidar, ER-04A is a ditch that was constructed in upland.
ER-04B	1.65	acre(s)	(b)(1) Non-adjacent wetland
ER-07	0.77	acre(s)	(b)(1) Non-adjacent wetland
ER-08	2.57	acre(s)	(b)(1) Non-adjacent wetland
ER-09	0.07	acre(s)	(b)(1) Non-adjacent wetland
ER-10A ER-10B	0.13 0.18	acre(s)	(b)(1) Non-adjacent wetland
ER-11	0.64	acre(s)	(b)(1) Non-adjacent wetland
ER-12	0.12	acre(s)	(b)(1) Non-adjacent wetland
ER-13	0.76	acre(s)	(b)(1) Non-adjacent wetland
ER-15A	1.25	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).
ER-17A ER-17B	0.73 2.59	acre(s)	(b)(1) Non-adjacent wetland





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Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
				before 1940. The wetland complex has potential to contribute surface water to ER-16D which is a geographically isolated basin/mine pit with no surficial connection to an (a)(1)-(a)(3) water.
CP-01	0.02	acre(s)	(b)(1) Non-adjacent wetland	CP-01 is a geographically isolated wetland basin with no surficial connection to an (a)(1)-(a)(3) water.
CP-02A CP-02B CP-02C	1.14 10.90 9.94	acre(s)	(b)(1) Non-adjacent wetland	CP-02A, CP-02B, CP-02C is a wetland complex that discharges under a haul road through a culvert into wetland CP-03 which discharges into wetland ER-15A which is a ditch that is not an (a)(1) or (a)(2) water and was constructed in uplands.
CP-03	2.02	acre(s)	(b)(1) Non-adjacent wetland	CP-03 discharges into wetland ER-15A which is a ditch that is not an (a)(1) or (a)(2) water and was constructed in uplands.
CP-04A	1.52	acre(s)	(b)(1) Non-adjacent wetland	CP-04A is a geographically isolated wetland basin with no surficial connection to an (a)(1)-(a)(3) water.
CP-04B	0.14	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).	CP-04B is a ditch that was constructed in uplands and is not an (a)(1) or (a)(2) water and does not provide any surficial water to an (a)(1)-(a)(3) water.
CP-05	0.23	acre(s)	(b)(1) Non-adjacent wetland	CP-05 is a geographically isolated basin with no surficial connection to an (a)(1)-(a)(3) water.
CP-06	1.25	acre(s)	(b)(1) Non-adjacent wetland	CP-06 is a geographically isolated basin with no surficial connection to an (a)(1)-(a)(3) water.
CP-07A	0.39	acre(s)	(b)(1) Non-adjacent wetland	CP-07A is a geographically isolated basin with no surficial connection to an (a)(1)-(a)(3) water.
CP-07B	0.15	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).	CP-07B is a ditch that is not an (a)(1) or (a)(2) water and does not provide any surficial water to an (a)(1)-(a)(3) water.
CP-08	0.33	acre(s)	(b)(1) Non-adjacent wetland	CP-08 has a surface water connections to CP-09 which discharges into wetland ER-15A which is



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Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination	
			a ditch that is not an (a)(1) or (a)(2) water and was constructed in uplands.	
CP-09	0.33	acre(s)	(b)(1) Non-adjacent wetland	CP-09 discharges into wetland ER-15A which is a ditch that is not an (a)(1) or (a)(2) water and was constructed in uplands.
CP-10A CP-10B CP-10C	1.82 0.23 1.96	acre(s)	(b)(1) Non-adjacent wetland	CP-10A, CP-10B and CP-10C is a wetland complex that is located within a closed depression. With the lowest potential surface overflow being 10 feet above the wetland boundary elevation, the wetland is a geographically isolated basin with no surficial connection to an (a)(1)-(a)(3) water.
CP-11 CP-12 CP-13 CP-14	0.19 0.90 0.39 0.08	acre(s)	(b)(1) Non-adjacent wetland	CP-11, CP-12, CP-13 and CP-14 are geographically isolated wetland basins with no surficial connection to an (a)(1)-(a)(3) water.
ER-16A ER-16B ER-16C ER-16D Canton Pit	12.57 19.21 3.54 15.11 159.89	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	ER-16A, ER-16B, ER-16C, ER-16D and the Canton Pit are water-filled depressions (mine pits) created by mining activities. The mine pits are not (a)(1) waters and lack a direct or indirect surface water connection to downstream (a)(1) waters and are not inundated by flooding from an (a)(1), (a)(2) or (a)(3) 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: [Wetland Delineation and Functional Assessment Report, October 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 and Other: Wetland Delineation and Functional Assessment Report, October 2020, 1940 and 1948 aerial photos \(MNDNR Landview\), Google Earth.](#)
- ☒ Corps site visit(s) conducted on: [November 6, 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\(s\).](#)
- ☒ USFWS NWI maps: [Wetland Delineation and Functional Assessment Report, October 2020.](#)



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☒ USGS topographic maps: [Wetland Delineation and Functional Assessment Report, October 2020.](#)

**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="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">MN TOPO Lidar</a>

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

**C. Additional comments to support AJD:** [N/A](#)