



**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): 2/11/2021

ORM Number: MVP-2019-00363-BBY

Associated JDs: N/A

Review Area Location¹: State/Territory: Minnesota City: St. Paul, Maplewood, Vadnais Heights, Gem Lake, White Bear Lake, and White Bear Township County/Parish/Borough: Ramsey

Center Coordinates of Review Area: Latitude 45.007813 Longitude -93.044130

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.



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D. Excluded Waters or Features

| Excluded waters ((b)(1) – (b)(12)): ⁴ | | | | |
|--|----------------|---------|--|--|
| Exclusion Name | Exclusion Size | | Exclusion ⁵ | Rationale for Exclusion Determination |
| W-28 and W-59 | 4.0 | acre(s) | (b)(1) Non-adjacent wetland. | The joint application states that that review of NHD, LiDAR, and aerial mapping indicates wetlands W-28 and W-59 are isolated wetland basins that do not share a surface water connection to Waters of the U.S. Corps review of LiDAR shows that wetlands W-28 and W-59 are depressional basins, surrounded by upland. Neither wetland is adjacent to an a(1)-a(3) water. The application also states that the National Map NHD Viewer only identifies storm sewer connections between wetlands W-28 and W-59 and any surrounding water. Corps review of the submitted NHD map confirms these findings. W-28 shares a storm sewer connection with W-26 which is not an a(1)-a(3) water and is not adjacent to an a(1)-a(3) water. W-59 shares a storm sewer connection with W-57 which is not an a(1)-a(3) water and is not adjacent to an a(1)-a(3) water. Neither W-28 or W-59 share a surface water connection with an a(1)-a(3) water. Therefore, wetlands W-28 and W-59 are not considered waters of the U.S. under the Navigable Waters Protection Rule. |
| W-68, W-69, W-70, W-72, W-74, W-75, and W-97 | 0.56 | 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). | The joint application states that wetlands W-68, W-69, W-70, W-72, W-74, W-75, and W-97 are roadside ditches that were constructed in upland and completely dependent on the roadway for hydrology. Review of 1940 historic aerial imagery indicates that these wetlands were constructed in uplands. These ditches that meet the definition of “ditch” under paragraph c(2) of the Navigable Waters Protection Rule. The ditches listed are therefore not jurisdictional because they meet the requirements of the exclusion for ditches in paragraph b(5). |
| W-15, W-16, W-17, W-19 and W-20 | 0.5 | acre(s) | (b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional | The application states that wetlands W-15, W-16, W-17, W-19 and W-20 were excavated in uplands for the purpose of stormwater treatment. The applicant submitted historic aerial imagery (1940) and stated that the imagery indicated that wetlands W-15 and W-16 appear to be located in an old railroad corridor, W-17 appears to be |

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.



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| Excluded waters ((b)(1) – (b)(12)): ⁴ | | | |
|--|----------------|---|--|
| Exclusion Name | Exclusion Size | Exclusion ⁵ | Rationale for Exclusion Determination |
| | | water to convey, treat, infiltrate, or store stormwater runoff. | located in an old railroad yard, W-19 appears to be located in an old parking lot, and W-20 appears to be located in an old rail corridor. Google Earth aerial imagery confirmed the applicant's findings. Google Earth imagery indicated that W-15 and W-16 were likely constructed in uplands between 2003-2006, W-17 between 2004-2005, W-19 between 2004-2006, and W-20 between 1991-2002. Based on this information, W-15, W-16, W-17, W-19 and W-20 are not waters 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: [The Approve Jurisdictional Determination Joint Application request dated December 23, 2020 and submitted by Kimley- Horn on January 8, 2021.](#)

This information [is and is not](#) sufficient for purposes of this AJD.

Rationale: [Additional Google Earth aerial imagery was needed to determine if the stormwater features were constructed in uplands.](#)

- ☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- ☒ Photographs: [Aerial: Google Earth 1991, 2002-2006, 2008-2020; Historic Aerials 1940](#)
- ☐ Corps site visit(s) conducted on: [Date\(s\).](#)
- ☐ Previous Jurisdictional Determinations (AJDs or PJDs):
- ☐ 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:

| 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 | NHD map submitted in the application. |

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.](#)



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C. Additional comments to support AJD: The review area for our jurisdictional determination is limited to wetlands labeled W-15, W-16, W-17, W-19, W-20, W-28, W-59, W-68, W-69, W-70, W-72, W-74, W-75, and W-97. During the review process for this AJD, a possible connection from Lake Phalen to W-28 via W-26 was examined. It was determined by reviewing the submitted LiDAR and the NHD maps that the only hydrologic connection that existed between Lake Phalen and these wetlands was a storm sewer connection, no surface water connection was evident.