



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): January 29, 2021

ORM Number: MVP-2007-02785-EJW

Associated JDs:

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

**State/Territory:** MN **City:** Chanhassen **County/Parish/Borough:** Carver County

**Center Coordinates of Review Area:** Latitude 44.832458 Longitude -93.539662

**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
Storm Pond	0.35 acres	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff	A desktop review of aerial imagery shows that Storm Pond appears to have been constructed after 2013. A review of aerial imagery and the 2020 delineation report also shows no hydrologic connection through CR-101 which is along the eastern boundary of the AJD review area, to Lake Riley. Therefore, Storm Pond was not constructed in a jurisdictional water of the US (WOUS) and meets the (b)(10) exclusion under the NWPR.
Tributary 1	115 feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	The nearest (a)(1)-(a)(3) water is Lake Riley (approximately 0.14 miles east of the AJD Review Area. Tributary 1 does not contribute surface water flow directly or indirectly to Lake Riley in a typical year. As shown in the 2020 delineation report, it flows from Wetland 2A to Wetland 3A and they lack a surface connection to Lake Riley. Under the NWPR, Tributary 1 does not meet the definition of a jurisdictional tributary and is not a WOUS.
Wetland 1A	0.05 acres	(b)(1) Non-adjacent wetland	Wetlands 1A-4A have no surface water connection to Lake Riley. The delineation report shows they do not abut a TNW or a lake, pond, tributary, or impoundment of a jurisdictional water. They do not meet the definition of adjacent wetlands under the NWPR and are not WOUS.
Wetland 2A	3.19 acres	(b)(1) Non-adjacent wetland	
Wetland 3A	19.29 acres	(b)(1) Non-adjacent wetland	
Wetland 4A	0.43 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: Erhart Property Wetland Delineation Report by Kjolhaug Environmental Services Company, Inc. (July 7, 2020)  
This information (*is and is not*) sufficient for purposes of this AJD.  
Rationale: Aerial imagery was used to determine when Storm Pond was constructed as well as to investigate the adjacent areas not shown in the delineation to determine if a surface water connection was present.
- \_\_\_ Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- ☒ Photographs: (aerial) Google Earth 1991-2020
- \_\_\_ 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)*.

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**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	N/A.

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

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

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