



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): 11/18/2020

ORM Number: MVP-2019-00289-EJW

Associated JDs: MVP-2019-00289-EJW

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

State/Territory: MN City: Blaine County/Parish/Borough: Anoka County

Center Coordinates of Review Area: Latitude 45.209516 Longitude -93.157094

**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
Drainageway 1	166 linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	An email from the agent states that drainageway 1 is a narrow, unvegetated, ephemeral trench with no evidence of flow in the field (washouts, erosion, etc.) While it provides an ephemeral surface water connection onsite between Wetlands 1 and 2 as confirmed by aerial imagery and the provided delineation report. The agent who performed the delineation describes it as a dry upland ditch. Drainageway 1 does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year. It appears to have been formed in upland as historic aerial imagery does not show a relocated tributary within the site and does not meet the definition of an (a)(1) or (a)(2) water and is not a water of the US.
Wetland 1	0.18 acre	(b)(1) Non-adjacent wetland	The nearest (a)(3) water is Marshan Lake (approximately 3.2 miles southeast of the review area). Wetlands 1, 2, 3, and 7 do not abut a TNW or a lake, pond, tributary, or impoundment of a jurisdictional water. Wetland 3 is adjacent to a private ditch to the west, but the ditch does not meet the definition of a tributary as Drainageway 1 is ephemeral and tributaries must be perennial or intermittent in a typical year as per the NWPR, therefore Wetland 3 does not meet the definition of an adjacent wetland. Wetlands 1 and 2 connect to form one larger wetland complex offsite to the east, but aerial imagery does not show any surface water connection to Marshan Lake or any other water of the US. Topographic maps with LiDAR and the soil survey map show the wetlands surrounded by uplands. The USFWS NWI map does not show any wetlands continuing offsite that could render the wetlands in this review as adjacent to a WOUS. There are no tributaries providing a surface connection to a jurisdictional water of the US to the wetlands in review. Wetlands 1, 2, 3, and 7 do not have a surface water connection to Marshan Lake, do not meet the definition of adjacent wetlands, and are not waters of the US.
Wetland 2	0.91 acre	(b)(1) Non-adjacent wetland	
Wetland 3	0.12 acre	(b)(1) Non-adjacent wetland	
Wetland 7	0.04 acre	(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.

  X   Information submitted by, or on behalf of, the applicant/consultant: Almberg Site East Wetland Delineation Report August 20, 2020.  
This information (is) sufficient for purposes of this AJD.  
Rationale: N/A

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- \_\_\_ Data sheets prepared by the Corps: *Title(s) and/or date(s)*.  
\_X\_ Photographs: (aerial) Google Earth 1991-2020.  
\_\_\_ Corps Site visit(s) conducted on: *Date(s)*.  
\_X\_ Previous Jurisdictional Determinations (AJDs or PJDs): MVP-2019-00289-EJW (August 21, 2020)  
\_\_\_ Antecedent Precipitation Tool: provide detailed discussion in Section III.B.  
\_X\_ USDA NRCS Soil Survey: Anoka County Soil Survey  
\_X\_ USFWS NWI maps: USFWS National Wetlands Inventory  
\_X\_ USGS topographic maps: 1:24K Circle Pines

**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:**

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