



**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): 3/18/2021

ORM Number: MVP-2020-01372-BBY

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: MN City: Corcoran County/Parish/Borough: Hennepin

Center Coordinates of Review Area: Latitude 45.099515 Longitude -93.548878

**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.	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.	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.	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.	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 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)): <sup>4</sup> The review area is limited to the waterway labeled S-1.				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
S-1	215	linear 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.	Waterway S-1 flows into Wetland 3. Water from Wetland 3 flows into Wetland 4 via Waterway S-2 and then exits Wetland 4 via Waterway S-3. Waterway S-3 is labeled as "Drainageway 2" on an AJD (2020-02333-EJW 20210301 AJDDEL) that was issued on March 1, 2021. This AJD states that Drainageway 2 (S-3) is not a jurisdictional water due to the b(5) exclusion, Drainageway 2 was constructed after 2008 and is not a relocated tributary. Drainageway 2 (S-3) starts at Wetland 4 and ends at an agricultural tile inlet which is located approximately 1,000 linear feet from South Fork Rush Creek. Aerial imagery (MHAPO 1945, 1957, and 1967) indicates that the agricultural tile did not replace or culvert a tributary feature, no tributary feature is found in these images. Additionally, no tributary feature is observed between Drainageway 2 (S-3) and South Fork Rush Creek in Google Earth aerial imagery from 1991, 2002-2006, 2008-2020. There is no surface water connection between Drainageway 2 (S-3) and South Fork Rush Creek. Agricultural tile does not constitute a surface water connection to an a(1)-a(3) water under the NWPR. Therefore, S-1 does not contribute surface water flow directly or indirectly to an a(1) water and is not considered a water 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: [Joint Application for the Rush Creek Reserve project signed on February 23, 2021 and submitted by Stantec.](#)

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

Rationale: [N/A](#)

☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

☒ Photographs: [Aerial: MHAPO 1945, 1957, and 1967; Google Earth 1991, 2002-2006, 2008-2020.](#)

☐ Corps site visit(s) conducted on: [Date\(s\).](#)

<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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- ☒ Previous Jurisdictional Determinations (AJDs or PJDs): [2020-02333-EJW 20210301 AJDDEL](#)
- ☐ 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
<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="#">N/A.</a>

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

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