



**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): 5/18/2021

ORM Number: MVP-2021-00585-MJB

Associated JDs: N/A

Review Area Location¹: State/Territory: MN City: Rochester County/Parish/Borough: Olmsted

Center Coordinates of Review Area: Latitude 43.97953 Longitude -92.52612

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.	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.

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Stormwater Pond	0.6	acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	The feature was constructed in non-hydric upland soil during the same timeframe that construction development was occurring to the east of the project. No waterway or wetland was found on historical USGS, NHD, NRCS maps at the site location. The feature is a stormwater pond that was excavated in upland. The feature is not jurisdictional under the Navigable Water Protection Rule and the Clean Water Act.
Drainageway1 Drainageway 2	780 890	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	These features are erosional channels. A portion of the features, closest to Meadow Crossing Rd SW are identified as a tributary on the National Hydrography Dataset. A review of aerial imagery, indicated no evident flow in the channel in a typical year. From street view the channel cannot be seen due to the tree coverage, and no clear separation of trees where a channel could exist is seen. Site photographs show trees growing within or close to the center of the erosional channel. The flow regime of the channels is expected to be ephemeral or less. There is not sufficient evidence to indicate the channels carry intermittent or perennial flow. They are considered erosional features that are likely to carry ephemeral flow in direct response to rain events. The site has non-hydric soils and is mapped as having 6-18% slope. The features are not jurisdictional under the Navigable Water Protection Rule and the Clean Water Act.

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: [Mayo Woodlands Third and Fourth Wetland Review](#)

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

Rationale: [Additional information was requested and considered as part of this evaluation.](#)

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

☒ Photographs: [Aerial: Google Earth Historical and Current Imagery](#)

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

- ☐ 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: [Olmsted County Soil Survey](#)
- ☒ USFWS NWI maps: [National Wetland Inventory](#)
- ☒ USGS topographic maps: [1:24K Salem Corners](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrography Dataset
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):

[Google Earth Imagery](#) was used for the assessment. A portion of the feature is within an open vegetated area and a larger portion has tree coverage. The feature cannot be seen under the tree canopy in any of the aerial photos, as a result of the forested area. Google earth street view was used, but the channel cannot be seen from that perspective either. Trees are blocking visibility of the channel in both cases. This typical year assessment is based on the portion of the features that can be seen where there is not tree coverage.

[Imagery date: 5/18/2016](#) – normal conditions during wet season where the drought index (PDSI 2.55) indicated moderate wetness, no flow evident on imagery

[Imagery Date: 4/26/2015](#) – normal conditions during wet season and mild wetness (PDSI 1.65), no flow evident on imagery. Where the channel meets the road, a darker stream, potentially having flow, can be seen at an angle in Google Earth.

[Imagery Date: 7/3/2011](#) – normal conditions during dry season and extreme wetness for the drought index (PDSI 4.42), no flow evident on imagery.

[Imagery Date: 6/23/2010](#) – normal conditions during dry season and mild wetness (PDSI 1.37), no flow evident on imagery.

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