



**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): 6/22/2020

ORM Number: 2017-04269-MMJ; CSAH 27

Associated JDs: NA

Review Area Location¹: State/Territory: MN City: Credit River Township County/Parish/Borough: Scott Co.

Center Coordinates of Review Area: Latitude 44.70435 Longitude -93.379385

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: NA
- ☐ 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 The review area for this AJD is limited to the excluded waters described below and shown on the enclosed figures labeled as 2017-04269-MMJ, NWPR AJD Figures 1-9.				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Waterbody labeled on attached figures as Wetland E3.	0.38	acre(s)	(b)(1) Non-adjacent wetland.	Wetland E3 formed recently on the landscape due to construction activities along CSAH 27. Wetland E3 is physically separated from potential downstream waters. It is not located within the floodplain of any larger downstream waters and it is not separated from downstream waters by an artificial barrier. Wetland E3 is hydrologically isolated and physically remote, and does not qualify as an (a)(4) adjacent water.
Waterbodies labeled on attached figures as: E1a, E2a, E2b, E4, E5 & W2a	Total= 3.06	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	Waterbodies E1a, E2a, E2b, E4, E5 & W2a meet wetland criteria but they are currently being used as storm water management ponds. A review of historic aerial imagery, and hydric soil maps for the area, indicates that these ponds were constructed in either upland or non-jurisdictional waters.
Waterbodies labeled on attached figures as: Ditches W1, W2b, E1a	Total= 0.18	acre	(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).	Ditches W1, W2b and E1a were constructed in upland areas to convey run-off from the adjacent roadway; they are now linear wetlands. Topography maps provided for the project indicate that these roadside ditches have a distinct backslope of at least 2 feet above the ditch bottom, and the hydric soil map for the project corridor indicates that these roadside ditches are located in areas mapped as having non-hydric soil. Ditches W1, W2b, E1a are not (a)(1) waters, they were not constructed in a tributary, do not relocate a tributary, and were not constructed in an adjacent wetland.
Waterbody labeled on attached figures as: Channel 1	73	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Channel 1 is a small ephemeral tributary approximately 3-5 feet in width that conveys drainage between Ditch W1 and a swale near Cleary Lake. This feature does not have intermittent or perennial flow and has formed naturally on the landscape due to an increase in hydrology and storm water contributions in the area associated with surrounding development.

III. SUPPORTING INFORMATION

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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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: [Kimley-Horn Delineation report dated 12/07/2017 and permit application dated 9/12/2019.](#)

This information is sufficient for purposes of this AJD.

Rationale: [NA](#)

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

☒ Photographs: [Aerial: Historic aerial imagery 1937, 1940, 1945, 1951, and 1964, and recent Google Earth imagery 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: [Scott County](#)

☒ USFWS NWI maps: [MnDNR](#)

☒ USGS topographic maps: [1:24k Prior Lake](#)

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): [NA](#)

C. Additional comments to support AJD: Waterbodies E1a, E2a, E2b, E4, E5 & W2a, Wetland E3, Ditches W1, W2b and E1a, and Channel 1 are excluded waters under the Navigable Waters Protection Rule; they are not jurisdictional waters of the U.S.