



**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): 11/20/2020

ORM Number: MVP-2020-01782-BBY

Associated JDs: N/A

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

Center Coordinates of Review Area: Latitude 45°03'04.61"N Longitude 93°23'50.49"W

**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
- ☐ 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> |                |             |  |   |
|--|----------------|-------------|--|---|
| Exclusion Name                                   | Exclusion Size |             | Exclusion <sup>5</sup>   | Rationale for Exclusion Determination   |
| Perennial Tributary                              | 510            | linear feet | (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). | The ditch was constructed prior to 1937 according to historic aerial photos but is not found on a 1902 topographic map. Surface water is evident within the ditch on aerial photos in most years and is described as having a perennial flow regime in the 9210 Science Center Drive Wetland Delineation Report. Historic imagery and the 1902 topographic map indicate that the ditch was constructed in non-adjacent wetland and waterflow was directed towards to a roadside ditch. There is no evidence that the ditch is a natural stream, a relocated tributary or that it was constructed in a tributary or adjacent wetlands. This was confirmed through desktop review of available historic and current aerial imagery and historic topographic maps. Per the NWPR, the ditch does not meet the definition of a tributary; therefore, the ditch is not a water of the U.S, and is not jurisdictional under the Clean Water Act. |
| Wetland 1, 2, and 3.                             | 1.42           | acre(s)     | (b)(1) Non-adjacent wetland.   | The description and maps in the 9210 Science Center Drive Wetland Delineation Report indicate that Wetland 1 is completely surrounded by upland which was confirmed using aerial imagery. Wetland 1 has no surface water connection to a a(1)-a(3) water. Wetland 3 shares a surface water connection with a non-jurisdictional ditch (labeled “Perennial Tributary” on the attached figures). Wetland 2 potentially shares a surface water connection with the same non-jurisdictional ditch outside of the review area. Both Wetlands 2 and 3 only potentially share a surface water connection with this non-jurisdictional ditch and there is no connection to a jurisdictional a(1)-a(3) water. Therefore, Wetlands 1, 2, and 3 are not considered a waters 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.

<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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☒ Information submitted by, or on behalf of, the applicant/consultant: [9210 Science Center Drive Wetland Delineation Report dated September 18, 2020 and submitted by Kjohlhaug Environmental.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

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

☒ Photographs: [Aerial: MHAPO 1937, 1940, and 1953. Google Earth Imagery 1991, 2003-2006, 2008-2020.](#)

☐ 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: [Anoka MN 1902](#)

**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:** [The review area consists of 3 wetlands and one tributary labeled as "Perennial Tributary" on the attached figures. The tributary wraps around the northern and eastern portions of the site. Wetland 3 extends from the tributary to the southeast. Wetlands 1 and 2 are depressional basins located south of the tributary. These wetlands are dominated by reed canary grass and are classified at Type 1/3/5 wetlands. Wetlands 1 and 2 are surrounded by wooded areas with an operating business to the south. The entirety of the review area is surrounded by land being used for commercial and industrial purposes.](#)