



**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: MVP-2014-03723-MVM

Associated JDs: N/A

Review Area Location¹: State/Territory: Minnesota City: Maple Grove County/Parish/Borough: Hennepin

Center Coordinates of Review Area: Latitude 45.130178 Longitude -93.494724

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)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				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Waterbodies on attached figure labeled as: DNR Watercourse Ditch 1 Ditch 2	N/A.	N/A.	(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).	DNR watercourse is a perennial ditch constructed in non-adjacent wetland. Ditch 1 and Ditch 2 are intermittent constructed ditches that connect Wetland 1 and Wetland 2 to Wetland 3. The waterbodies were not constructed in a tributary and are not relocated tributaries.
Feature on attached figure labeled as: Swale 1	150	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	A site visit confirmed the feature is a swale that lacks an ordinary high water mark and true bed and banks and is not wetland.
Wetlands on attached figure labeled as: Wetland 1 Wetland 2 Wetland 3 Wetland 4 Wetland 5	N/A.	acre(s)	(b)(1) Non-adjacent wetland.	The wetlands do not abut a TNW or a lake, pond, tributary, or impoundment of a jurisdictional water. The wetlands are not inundated by flooding from a TNW, a tributary, or a lake, pond, or impoundment of a jurisdictional water in a typical year; and are not physically separated from a TNW, a tributary, lake, pond or impoundment of a jurisdictional water by only a natural berm or an artificial feature. The only surface water connection to waters outside the review area is a man-made ditch that is not a tributary.

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: [Garland Lane Collector Roadway Wetland Permit Application submitted by Kjolhaug Environmental Services, dated May 21, 2020.](#)

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: Google Earth 1991-2020, MNHAPO historical photos 1930 - 1970](#)
- ☒ Corps site visit(s) conducted on: [September 04, 2019](#)
- ☐ Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\).](#)
- ☐ Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

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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- ☒ USDA NRCS Soil Survey: [Hennepin County Soil Survey](#)
- ☒ USFWS NWI maps: [USFWS NWI](#)
- ☐ 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
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
CorpsMap ORM Map Layers	USGS NHD
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

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

C. Additional comments to support AJD: [The nearest tributary is South Fork Rush Creek, which has a direct surface hydrologic connection to the Mississippi River in Champlin, Minnesota. Wetlands 1-5 are connected to one another through an ephemeral swale \(wetland 5 to wetland 1\) and through intermittent ditches including Ditch 1 and Ditch 2. A review of available historical aerial photography confirms that the waterbodies in question were not constructed in a tributary and are not relocated tributaries. Therefore, Ditch 1 and 2 do not meet the definition of a tributary and are not waters of the U.S. Wetland 3 and 4 connect to Rice Lake \(TNW\) through a discontinuous man-made ditch that passes underneath many roadways and through other wetland basins. Aerial photos dating back as far as the year 1930 do not support that the ditch was once a natural tributary or is a relocated tributary, despite that the MN DNR public waters inventory does labels the feature an unnamed stream. Wetlands 1-5 have no surface hydrologic connection to South Fork Rush Creek or any a1-a4 water. Therefore, Wetlands 1-5 do not meet the definition of adjacent wetland and are not waters of the U.S. We conclude that no waters of the U.S. are present within the review area, and the aquatic resources listed above are not jurisdictional under the Clean Water Act.](#)