



**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): 7/10/2020

ORM Number: MVP-2017-03780-SSC

Associated JDs: N/A

Review Area Location¹: State/Territory: MN City: Corcoran County/Parish/Borough: Hennepin

Center Coordinates of Review Area: Latitude 45.073949 Longitude -93.548114

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.	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.



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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
Wetlands A, D, M, X, and Y	Total = 2.30	acre(s)	(b)(1) Non-adjacent wetland.	Wetlands A, D, M, X, and Y are surrounded by uplands and do not abut an a(1)-a(3) water. The wetlands are not inundated by flooding from an a(1)-a(3) water in a typical year, and are not separated by an a(1)-a(3) water by only a natural berm or an artificial structure. These four wetlands are surrounded by upland with no visible inlet or outlet. Therefore, the wetlands do not meet the definition of adjacent wetlands and are not waters of the U.S.
Wetlands U and V	Total = 0.69	Acre(s)	(b)(1) Non-adjacent wetland.	Wetlands U and V appear to abut Waterbody 1 and a connecting waterbody that do not meet the conditions of an a(2) water and are therefore not jurisdictional. In addition, Wetlands U and V are not inundated by flooding from an a(1)-a(3) water in a typical year, and are not separated by an a(1)-a(3) water by only a natural berm or an artificial structure.
Wetlands E and H	Total = 8.34	acre(s)	(b)(1) Non-adjacent wetland.	Wetland H drains north into Wetland E by way of a culvert. Wetland E drains to the northeast through a culvert under County Road 116 to a channelized ditch that flows into unnamed stream M-062-0212 (MN Public Watercourse). The ditch is present in aerial imagery dating back to 1937. There is not sufficient evidence to determine this feature to be constructed in a wetland or tributary or a relocated tributary. Wetland E and H are therefore not jurisdictional due to the lack of adjacency to an a(1)-a(3) water. They do not abut an a(1)-a(3) water and are not inundated by flooding from an a(1)-a(3) water. In addition, they are not separated from an a(1)-a(3) water by only a natural berm or artificial structure.
Wetland F, G, I, J, K, L, N, O, P, Q, and R	Total = 18.23	acre(s)	(b)(1) Non-adjacent wetland.	Wetland L drains to the northeast through a culvert under County Road 116 to a channelized portion of unnamed stream M-062-0212. The channelized ditch is present in aerial imagery from 1937. USGS topographic maps from 1909 do not contain this portion of the feature until a 1958 topographic map. There is not sufficient evidence to determine this feature to be a

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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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
			relocated tributary or constructed in an adjacent wetland or tributary. Wetland L is therefore not jurisdictional due to the lack of adjacency to an a(1)-a(3) water. It does not abut an a(1)-a(3) water and is not inundated by flooding from an a(1)-a(3) water. In addition, it is not separated from an a(1)-a(3) water by only a natural berm or artificial structure. Wetlands F, G, I, J, K, N, O, P, Q, and R drain into Wetland L and are therefore non-adjacent wetlands that are not considered waters of the U.S based on the non-jurisdictional status of Wetland L.	
Waterbody 1	398	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).	Waterbody 1 drains into Wetland C and is connected to another waterbody by way of a culvert. Aerial imagery from 1937 does not appear to show this feature. It is likely that Waterbody 1 was constructed to aid drainage of agricultural fields. The waterbody is not a relocated tributary or constructed in a tributary and does not appear to be constructed in wetlands. Therefore, Waterbody 1 is not considered a water of the U.S.
Waterbody 3	323	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).	Waterbody 3 is a highly eroded ephemeral feature that drains into Wetland G during high water events and is denude of vegetation. Aerial Imagery from 1937 does not appear to show this feature. The waterbody is not a relocated tributary or constructed in a tributary and does not appear to be constructed in wetland. Therefore, Waterbody 3 is not considered a water of the U.S.
Waterbody 4	184	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Waterbody 4 is an eroded, ephemeral channel that drains Wetland J into Wetland L, both non-adjacent wetlands. During high water events water flows into Wetland L eroding the channel. The waterbody is denude of vegetation. Therefore, Waterbody 4 is not considered a water of the U.S.
Waterbody 5	322	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	Waterbody 5 is a narrow, ephemeral feature that drains Wetland P into Wetland N, both non-adjacent wetlands. The waterbody is denude of vegetation. Aerial Imagery from 1937 does not appear to show this feature. It is not a relocated tributary or constructed in a tributary or wetland. Therefore, Waterbody 5 is not considered a water of the U.S.



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
		conditions of (c)(1).	

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: [Wetland Delineation Report Country Road 116 Properties submitted by Midwest Natural Resources, Inc., dated August 13, 2019 and a Wetland Permit Application submitted by Midwest Natural Resources, Inc., on June 18, 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: MNHAPO historic photo 1937, 1940, and 1945; 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: [Title\(s\) and/or date\(s\)](#).

☒ USFWS NWI maps: [USFWS NWI](#)

☒ USGS topographic maps: [Figure 2 - Delineated Wetlands \(Wetland Permit Application\)](#)

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: [N/A](#)