



**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): 2/17/2021

ORM Number: MVP-2020-02233-RMH

Associated JDs: N/A

Review Area Location¹: State/Territory: MN City: Prior Lake County/Parish/Borough: Scott

Center Coordinates of Review Area: Latitude 44.705135 Longitude -93.39646

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.	

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
Wetland 1 Wetland 2 Wetland 3 Wetland 4	1.142 0.278 0.124 0.068	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetland 1 is part of a larger wetland complex that extends outside the project boundary. The wetland complex is not abutting or adjacent to a jurisdictional tributary. Topographic maps do not indicate a possible a(1)-(a)(3) waters within the vicinity of the wetland complex. The closest tributary as shown on the USGS Topographic map is an unnamed stream located approximately 2000 feet southeast of the wetland complex and approximately 14 feet lower in elevation than the wetland. Based on this information, the wetland complex is not abutting or adjacent to a jurisdictional tributary and therefore not jurisdictional under the Navigable Waters Protection Rule and Clean Water Act.</p> <p>Wetlands 2, 3 and 4 do not abut at least one point or side of, a paragraph (a)(1)-(3) water. The USGS NHD maps do not identify any abutting a(1)-(a)(3) waters in the review area. Based on FEMA maps, and elevation contours the wetlands would not be flooded by an (a)(1)-(3) water in a typical year. Based on this information, the investigated wetlands were determined to be hydrologically isolated and are therefore not regulated by the Corps under the Navigable Waters Protection Rule and Clean Water Act.</p>

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 for Kiehm Construction, Inc. Prior Lake submitted by Wenck Associates, Inc., dated October 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 and Other:](#) [submitted with maps of delineated wetlands in the delineation report.](#)

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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- ☐ 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 Soil Survey](#)
- ☒ USFWS NWI maps: [Accessed via ORM on February 17, 2021.](#)
- ☒ USGS topographic maps: [1:24 KPrior 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	FEMA Flood Hazard Zone Map reviewed in CorpsMap on February 17, 2021.

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

C. Additional comments to support AJD: [The Technical Evaluation Panel \(TEP\) completed an onsite assessment and concurred with the boundaries and types of report as delineated by Wenck Associates, Inc. The wetlands identified are not jurisdictional because they do not have a direct surface connection to a navigable water nor are they subject to inundation from a navigable water.](#)