



**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): 6/11/2021

ORM Number: 2017-03570-MMJ Ponds at Martin Farms AJD

Associated JDs: NA

Review Area Location¹: State/Territory: MN City: Otsego County/Parish/Borough: Wright Co.

Center Coordinates of Review Area: Latitude 45.253862 Longitude -93.638369

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.	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 The review area for this AJD is limited to the excluded waters described below and shown on the enclosed figures labeled as 2017-03570-MMJ, NWPR AJD Figures 1-2.

Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetlands 3, 4, 5, 6, 7, 7a, & 8	2.06	acre(s)	(b)(1) Non-adjacent wetland.	Wetlands 3, 4, 5, 6, 7, 7a & 8 are non-adjacent wetlands. They are all isolated wetland basins that are physically separated from potential downstream waters. This was documented in the delineation that was completed for the project site and confirmed by Corps staff at a site visit on April 08, 2021. Wetlands 3, 4, 5, 6, 7, 7a, & 8 are not located within the floodplain of any larger downstream waters and they are not separated from downstream waters by any natural or artificial barriers. The wetlands referenced above are hydrologically isolated and physically remote and do not qualify as (a)(4) adjacent waters under the NWPR.
Tributaries 2 & 3 (T2 & T3 on figure)	877	linear feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary 2 (T2) and Tributary 3 (T3), as shown on the enclosed figures, are remnant tributary features that no longer flow off the property. The NHD, topographic maps, and historic aerials indicate that historically there was likely a perennial tributary that flowed through this property from south to north, but existing conditions and the delineation report indicate that the tributary no longer flows continuously through the site. T2 is technically now a swale feature that does not contain an ordinary high-water mark (OHWM). T3 does have an OHWM and hydrology most of the growing season. However, the historic surface water connection between T3 & T2 and downstream waters on and off the property has been severed by the installation of a temporary access/farm road that was constructed in approximately 2005, without a culvert. This severed connection/lack of a culvert was confirmed in the field by Corps staff on April 08, 2021 and reconfirmed by local and state regulators on May 06, 2021. Tributaries 2 & 3 are separated from downstream waters by an artificial barrier, and do not share a direct hydrologic surface connection to downstream waters in a typical year. These features do not qualify as (a)(2) waters under the NWPR.

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: [KES delineation updated May 27, 2021.](#)

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: 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: [Wright County](#)

☒ USFWS NWI maps: [MnDNR](#)

☒ USGS topographic maps: [1:24k Big 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	NA.

B. Typical year assessment(s): [NA](#)

C. Additional comments to support AJD: Wetlands 3, 4, 5, 6, 7, 7a & 8, and Tributaries 2 & 3, described above and shown on the enclosed figures are excluded waters under the Navigable Waters Protection Rule; they are not jurisdictional waters of the U.S.