



**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): [2/9/2021](#)

ORM Number: 2016-03933-MMJ; Advanced Volumetric Project Site AJD

Associated JDs: [NA](#)

Review Area Location¹: State/Territory: [MN](#) City: [Albertville](#) County/Parish/Borough: [Wright Co.](#)

Center Coordinates of Review Area: Latitude 45.250315 Longitude -93.679279

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 2016-03933-MMJ, NWPR AJD Figures 1-8.				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Ditch 1 & Ditch 2	2,710	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 features in the review area for this AJD are labeled on the attached figures as Ditch 1 & Ditch 2. Combined they span approximately 2,710 linear feet. According to enclosed historic aerial and topographic maps of the project area this ditch system was constructed in the early to mid-1900's, sometime between 1909 and 1945. Historic aerials and maps indicate that the portion of ditch within the review area was likely constructed in a historic wetland basin, and that this wetland was likely isolated and not adjacent to any downstream navigable [(a)(1)-(a)(3)] waters. The aerial and topographic map review for this project confirms that the ditch continuing downstream from the project site was likely constructed in an upland area. The enclosed figures also confirm that the ditch begins on the subject property, and it does not continue or cross through any potentially adjacent wetlands upstream of the project site, reaffirming the non-jurisdictional status of the ditch features in the review area. Ditch 1 & Ditch 2 are not (a)(1) or (a)(2) waters; they were not constructed in a tributary, they do not relocate a tributary, and they were not constructed in an adjacent (a)(4) wetland.
Wetland 2-west, Wetland 1-east and Wetland 2-east (all adjacent to Ditch 1 & Ditch 2) & Wetland 1-west, Wetland 3 & Wetland 4	13.92	acres	(b)(1) Non-adjacent wetland.	Wetland 2-west, Wetland 1-east and Wetland 2-east are adjacent to the non-jurisdictional ditch features described above. These wetlands are also non-jurisdictional; they do not qualify as adjacent (a)(4) waters. Wetland 1-west, Wetland 3 and Wetland 4 on the southern portion of the review area are also non-adjacent wetlands; they are 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 after referencing the enclosed hydric soil and national wetland inventory mapping for the project site. Wetland 1-west, and Wetlands 3 & 4 are not located within the floodplain of any larger downstream waters and they are not separated from downstream waters by an artificial barrier. These wetlands are hydrologically isolated and physically remote, and do not qualify as (a)(4) adjacent water.

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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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: [KES delineation completed in 2016/2017.](#)

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: Historic aerials 1945-1979 \(NETR online\) & 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 \(1909 and current\)](#)

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: The aquatic resources located within the review area for this AJD, 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.