



**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): 11/4/2020

ORM Number: MVP-2008-05615-MVM

Associated JDs: N/A

Review Area Location¹: State/Territory: Minnesota City: Blaine County/Parish/Borough: Anoka

Center Coordinates of Review Area: Latitude 45.126145 Longitude -93.191859

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
Ditch	742	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 nearest potential a(1)-a(3) water is Rice Creek, approximately 1 mile southeast of the review area. The ditch was constructed prior to 1938 according to historic aerial photos. Surface water is evident within the ditch on aerial photos in most years indicating an intermittent to perennial flow regime. Historic topographic maps support the ditch was constructed in non-adjacent wetland. There is no evidence that the ditch is a natural stream, a relocated tributary or that it was constructed in a tributary or adjacent wetlands. This was confirmed through desktop review of available historic and current aerial imagery, the National Hydrography Dataset, and current and historic topographic maps. Per the NWPR, the ditch does not meet the definition of a tributary; therefore, the ditch is not a water of the U.S, and is not jurisdictional under the Clean Water Act.
Wetlands labeled on the attached figures as: Wetland A, Wetland B, Wetland C, Wetland D1, Wetland D2, Wetland E, Wetland F, Wetland G	Total = 2.8	acre(s)	(b)(1) Non-adjacent wetland.	The nearest a(1)-a(3) is Rice Creek, approximately 1 mile southeast of the review area. Aerial and topographic maps show none of the wetlands in question are physically touching Rice Creek. The area between Rice Creek and the review area is highly developed with roads and commercial development. Contours show Wetland A, B, C, D1, D2, F, and G are closed depressions with no inlets or outlets surrounded entirely by upland. Wetland E shares a potential surface water connection with a non-jurisdictional ditch (labeled "Ditch" on the attached figures) given elevation and proximity to the ditch. The distance between the wetlands and the nearest potential a(1)-a(3) water supports that 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 structure. Therefore, the wetlands in question do not meet the

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
			definition of adjacent wetlands under the NWPR and are not waters of the U.S.

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: [March 2019 Whitewater Development delineation report submitted by Wenck Associates.](#)

This information **is and is not** sufficient for purposes of this AJD.

Rationale: [Additional desktop review was needed to determine jurisdiction.](#)

- ☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- ☒ Photographs: [Aerial: Google Earth Imagery, 1991-2020; MHAPO historic photo 1938](#)
- ☐ 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: [USGS TopoView 1902, 1955, 1985](#)

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	Anoka County Soil Survey.
NOAA Sources	N/A.
CorpsMap ORM Map Layers	USGS NHD
State/Local/Tribal Sources	MnTOPO
Other Sources	N/A.

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

C. Additional comments to support AJD: [N/A](#)