



**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): [July 1, 2021](#).

ORM Number: [MVP-2016-03397-JRH](#)

Associated JDs: [N/A](#)

Review Area Location¹: State/Territory: [Minnesota](#) City: [Elbow Lake/Sanford Townships](#)

County/Parish/Borough: [Grant](#)

Center Coordinates of Review Area: Latitude [45.9779](#) Longitude [-96.0020](#)

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 The review area for this determination is limited to the delineated boundaries of Wetland Ditches 1, 3, 5, 24, 25, 33, 34, 35, 37, 38, and Wetlands 9 and 10 on the attached figures labeled as 2016-03397-JRH AJD Attachments, Pages 1-9.			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland Ditch 1, Wetland Ditch 3, Wetland Ditch 5, Wetland Ditch 24, Wetland Ditch 25, Wetland Ditch 34, Wetland Ditch 35, Wetland Ditch 37, Wetland Ditch 38, See AJD Attachments Pages 2 - 7	0.50	acre(s)	(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). Wetland Ditch's 1, 3, 5, 24, 25, 34, 35, 37, and 38 were constructed in uplands to convey runoff from the adjacent roadway and agricultural fields, and are now linear wetlands that meet the definition of "ditch" under paragraph (c)(2). In addition, the ditches are not (a)(1) waters, are not relocated tributaries, are not constructed in a tributary, are not constructed in an adjacent wetland and were not constructed in an (A)4 water at the time they were constructed. This was confirmed by reviewing aerial photography (See 1938 Historic Imagery), national hydrography data, and the wetland delineation report. Based on this review, the assessed ditches are not jurisdictional under the Navigable Waters Protection Rule because they meet the requirements of the exclusion for ditches under paragraph (b)(5)
Wetland Ditch 33 See AJD Attachment Page 3	0.03	acre(s)	(b)(1) Non-adjacent wetland. Wetland Ditch 33 is located on the south side of CSAH 1. USGS topographic quads and 2-foot lidar contours show this wetland is hydrologically isolated and completely surrounded by upland. Aerial imagery also shows the wetland is not connected to another body of water and there are no wetland indicators leading to another body of water. The wetland is completely hydrologically isolated and surrounded by upland.
Wetland 9 See AJD Attachment Page 6	0.05	acre(s)	(b)(1) Non-adjacent wetland. Wetland 9 is located on the south side of CSAH 1. 1938 aerial imagery shows the presence of hydrologically isolated wetland basins in the area. Today there is a ditch that has been constructed in the uplands connecting multiple wetlands within the area. However, the 1938 imagery shows historically there was no ditch or stream feature connecting these wetland basins and were hydrologically isolated and completely surrounded by upland. Therefore, wetland 9 is not jurisdictional and is a non-adjacent wetland.

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 The review area for this determination is limited to the delineated boundaries of Wetland Ditches 1, 3, 5, 24, 25, 33, 34, 35, 37, 38, and Wetlands 9 and 10 on the attached figures labeled as 2016-03397-JRH AJD Attachments, Pages 1-9.

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland 10 See AJD Attachment Page 7	0.07 acre(s)	(b)(1) Non-adjacent wetland.	Wetland 10 is located on the north side of CSAH 1. USGS topographic quads and 2-foot lidar contours show this wetland is hydrologically isolated and completely surrounded by upland. Aerial imagery also shows the wetland is not connected to another body of water and there are no wetland indicators leading to another body of water. The wetland is completely hydrologically isolated and surrounded by upland

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: [Wideth Smith Nolting Wetland Delineation Report dated August 2016, and Joint Application submitted February 2021.](#)

This information [Select.](#) sufficient for purposes of this AJD.

Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\).](#)

☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

☒ Photographs: [Aerial: MHAPO: 1938; Google Earth: April 1991- May 2007](#)

☐ 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 of MN, 1974-1978](#)

☒ USGS topographic maps: [1:24k DRG](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS/WBD/NHD data/maps	NHD – High Resolution – MN, 2015
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	2- Foot Contours Minnesota (LIDAR Service)

B. Typical year assessment(s): [N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.](#)

C. Additional comments to support AJD: [N/A or provide additional discussion as appropriate.](#)