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): 8/5/2021
ORM Number: MVP-2017-00987-SSC
Associated JDs: N/A
Review Area Location[1]: State/Territory: MN City: Blaine County/Parish/Borough: Anoka
Center Coordinates of Review Area: Latitude 45.198410 Longitude -93.197245

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.	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.

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 MVP-2017-00987-SSC, Pages 1-2.

Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Wetlands 7, 10, and 11	Total = 0.55	acre(s)	(b)(1) Non-adjacent wetland.	Wetlands 7, 10, and 11 are surrounded by uplands, as shown in the wetland delineation report's 2-foot Lidar contours. Review of Google Earth imagery (April 2020, October 2019, April 2018) does not show a surface water connection to an a(1)-a(3) water. The National Hydrography Dataset (NHD) supports that review as well and does not show a surface water connection to an a(1)-a(3) water. Based on this information, Wetland 7, 10, and 11 are not waters of the U.S. under the Navigable Waters Protection Rule (NWPR).
Ornamental Pond	0.11	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	The ornamental pond onsite is described as a deep open water pond (>4 ft) with a base of river rock in the wetland delineation report. The Anoka County Parcel Viewer web application was utilized to review pictometry data spanning the years 2006-2020. The wetland delineation report also provided historic aerial images that showed the ornamental pond being part of Wetland 7 historically. The pond was excavated between 1991 and 1997. Due to the pond being excavated in a non-jurisdictional water, the ornamental pond is not a water of the U.S. under the NWPR.
Wetland 8	0.03	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 8 drains via culvert to the east. The culvert is not a tributary, confirmed by reviewing historic aerial images and topographic maps submitted by the agent. The wetland is not separated from an a(1)-a(3) water by only an artificial structure or natural feature. Wetland 8 does not have a direct hydrologic connection via the culvert in a typical year, as discussed below in Section III. B. Based on this information, Wetland 8 is not a water of the U.S. under the NWPR.
Wetland 6	0.09	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 6 extends offsite to the west of the project area. The wetland is surrounded by upland. Review of information/delineation from the adjacent parcel to the west, delineates Wetland 6 and does not show a surface 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.

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 MVP-2017-00987-SSC, Pages 1-2.				
Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
				connection to an a(1)-a(3) water. Additionally, the National Wetland Inventory denotes the wetland as delineated and does not show a surface water connection to an a(1)-a(3) water. Based on this information, Wetland 6 is not a water of the U.S. under the NWPR.
Private Ditch #59-4-C	260	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Private Ditch #59-4-C runs west to east through the project area. The ditch is present in historic aerial imagery from 1938 (MHAPO) and looks largely the same in current imagery. The surrounding landscape has changed dramatically over time and is now highly developed (residential developments). A typical year assessment was completed using the Antecedent Precipitation Tool (APT) to determine the flow regime of Private Ditch #59-4-C. This review is discussed below in Section III. B. After weighing all of the evidence, Private Ditch #59-4-C is determined to only have surface water present immediately after a precipitation event and is therefore ephemeral.

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: Herbst/Raich Site Wetland Delineation Report dated May 21, 2021

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: MHAPO – 1938; Google Earth - April 2020, October 2019, April 2018; Anoka County Pictometry - November 2017, April 2014, April 2008

☐ 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: National Wetland Inventory Map – generated 8/4/2021

☒ USGS topographic maps: Circle Pines 1967, 2010, 2013, 2016, 2019

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	The National Map – NHD Layer viewed 8/3/2021 StreamStats Report generated 7/28/2021
USDA Sources	N/A.

Data Source (select)	Name and/or date and other relevant information
NOAA Sources	N/A.
Other USACE data (specify)	Site information/delineation from adjacent parcel (MVP-2007-02208)
State/Local/Tribal Sources	Anoka County Parcel Viewer Web App
Other Sources	N/A.

B. Typical year assessment(s): The agent supplied site photos that were taken on April 26, 2021 (Normal Conditions). Anoka County Parcel Viewer Web App pictometery was also reviewed for several dates including: November 2017 (Normal Conditions), April 2014 (Normal Conditions), April 2008 (Normal Conditions). The aerial images did not show any water flowing within the ditch channel or through the culvert. Some wet signature is noted, but no flow was evident. Additionally, the site photos did not show any water in the ditch, leaf litter and debris were present throughout. The wetland delineation report characterizes the west half of the ditch (Private Ditch #59-4-C) as minimally vegetated and the eastern half (Wetlands 8 and 9) as nearly 100% vegetated. A StreamStats Report was also generated. The drainage area from the report was 0.07 square miles and the flow-duration statistics flow reported a value of 0.00315 ft^3/s for the 99 percent duration, these readings can be indicators of ephemeral flow. Supporting information for this determination is also provided by the NHD and USGS topographic maps (Circle Pines – 1967, 2010, 2013, 2016, 2019), which do not map the ditch as feature. Typically, perennial and intermittent streams are mapped features, the absence of this ditch being mapped on those items supports an ephemeral determination. These findings are consistent with a stream flowing only in direct response to precipitation and is therefore ephemeral.

C. Additional comments to support AJD: N/A