



**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): 3/17/2021

ORM Number: MVP-2017-03817-RMH

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: Minnesota City: Lakeville County: Dakota

Center Coordinates of Review Area: Latitude 44.696496 Longitude -93.296297

**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)<sup>2</sup>**

§ 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): <sup>3</sup>				
(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.

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Stream	274	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	The Stream is identified on the USGS National Hydrography Dataset (NHD) map as an intermittent flowline that terminates at Wetland A. Based on this map and 2-foot elevation contours derived from LIDAR, the stream outlets into the wetland complex which as specified below is not jurisdictional. There is no channelized surface water feature to connect the Stream to a downstream water. Therefore, the Stream is not jurisdictional under the Navigable Waters Protection Rule and Clean Water Act.
Wetland A Wetland B	5.56 2.11	acre(s)	(b)(1) Non-adjacent wetland.	Wetland A and Wetland B are part of a larger wetland complex that extends outside the project boundary to both the west and east. The USGS National Hydrography Dataset (NHD) map identifies an intermittent flowline which flows through and outlets into the wetland complex. As specified above the intermittent flowline (Stream) is not considered a jurisdictional tributary. A channel flows from the eastern side of Wetland A to the north eastern corner of the property boundary where it drains into a large storm water basin located in the ROW of 172 <sup>nd</sup> St W. Review of Google Earth imagery did not indicate the presence of a culvert or artificial structure that would allow a direct hydrologic surface connection to an (a)(1) – (a)(3) water. Wetland B is connected to Wetland A via a narrow channel on the western edge. The USGS NHD map does not identify any abutting (a)(1)-(a)(3) waters in the review area. Based on FEMA maps, and elevation contours the wetlands would not be flooded by an (a)(1)- (3) water in a typical year. Therefore, the wetlands are not abutting or adjacent to a jurisdictional tributary and therefore not jurisdictional under the Navigable Waters Protection Rule and Clean Water Act.
Wetland C Wetland D	0.53 0.45	acre(s)	(b)(1) Non-adjacent wetland	Wetlands C and D are also part of a larger wetland complex that extends outside of the project boundary. Based on USGS NHD and elevation contours the wetland complex is located in a depressional area and is physically removed from the nearest (a)(1)-(a)(3) water, therefore it would not be subject to flooding from an (a)(1)-(a)(3) in a typical year. The wetlands do not meet the definition of “adjacent wetlands” and are therefore not jurisdictional under the Navigable Waters



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Protection Rule and Clean Water Act.

**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: [Wetland Delineation Report for 172<sup>nd</sup> St W Property submitted by Midwest Natural Resources, Inc. dated October 27, 2017 and updated December 16, 2020 and additional information provided March 17, 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: Google Earth 2003-2006, 2010-2016, 2020. Minnesota Historical Aerial Photographs Online 1937, 1945](#)

☐ 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: [NWI accessed via ORM on March 17, 2021.](#)

☒ USGS topographic maps: [1:24K Rochester](#)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">National Hydrography Dataset</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">MVPMAP Portal – 2-foot LIDAR contours</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">MnTOPO state topography information</a>
<a href="#">Other Sources</a>	<a href="#">Office of Geographic Information Systems -Dakota County, MN <a href="https://gis.co.dakota.mn.us/dcgis/">https://gis.co.dakota.mn.us/dcgis/</a> FEMA Flood Hazard Zones Map viewed in CorpsMap on March 17, 2021.</a>

**B. Typical year assessment(s):**

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

<sup>4</sup> 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.

<sup>5</sup> 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.