



**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): [January 21, 2021](#)

ORM Number: [MVP-2020-02288-CCK](#)

Associated JDs: [N/A](#)

Review Area Location<sup>1</sup>: State/Territory: [Minnesota](#) City: [Livonia Township](#)

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

Center Coordinates of Review Area: Latitude [45.417015 N](#) Longitude [-93.565442 W](#)

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

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</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	
<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</a>	

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</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	
<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</a>	

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination	
<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</a>	<a href="#">N/A.</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
Wetland 5, Wetland 6	0.107	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 5 and Wetland 6 contain roadside ditches that are constructed through non-jurisdictional wetlands. A review of the data sources in Section III.A indicates that the wetlands are geographically isolated and physically separated from potential downstream waters. These wetlands may have at one time been part of jurisdictional wetlands but connection has since been severed by development such as roadways; and are now surrounded by uplands.
Wet Ditch 2, Wet Ditch 3, Wet Ditch 4, Wet Ditch 7, Wet Ditch 8, Wet Ditch 9, Wet Ditch 10, Wet Ditch 11	0.49	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).	Wet Ditch 2, Wet Ditch 3, Wet Ditch 4, Wet Ditch 7, Wet Ditch 8, Wet Ditch 9, Wet Ditch 10, and Wet Ditch 11 are roadside ditches that were constructed in uplands and are now linear wetlands.

**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: [SRF Consulting, Inc on behalf of Sherburne County Public Works, Joint Permit Application and TH 169 and CSAH 19/CSAH 25 Intersections Wetland Delineation Report](#)

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 Imagery, \(1991-2020\); 1953, 1939 historic aerial photos from Applicant, On-site photos provided by applicant dated August 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: [Anoka County Web Soil Survey/ http://websoilsurvey.nrcs.usda.gov/](#)

<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.



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- ☒ USFWS NWI maps: [USFWS NWI of MN, 1974-1978](#)
- ☒ USGS topographic maps: [1:24k USGS Lake Fremont Quadrangle](#)

**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="#">N/A.</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="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">Lidar 2-Foot Contours</a>

**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:** [The review are for this determination is limited to the delineated boundaries of 10 wetland areas labeled as Wet Ditch 2, Wet Ditch 3, Wet Ditch 4, Wetland 5, Wetland 6, Wet Ditch 7, Wet Ditch 8, Wet Ditch 9, Wet Ditch 10 and Wet Ditch 11 on the attached figures labeled 2020-02288-CCK AJD Attachments, Pages 1-10. The total area of non-jurisdictional waters within the review area is approximately 0.597 acres.](#)

[All of the wetlands within the review area meet the definition of “wetlands” under paragraph \(c\)\(16\) and are not \(a\)\(4\) waters because they do not meet the definition of “adjacent wetlands” under paragraph \(c\)\(1\). Wetland 5 and Wetland 6 contain roadside ditches that are constructed through non-jurisdictional wetlands. A review of the data sources in Section III.A indicates that the wetlands are geographically isolated and physically separated from potential downstream waters. These wetlands may have at one time been part of jurisdictional wetlands but connection has since been severed by development such as roadways; and are now surrounded by uplands. Wet Ditch 2, Wet Ditch 3, Wet Ditch 4, Wet Ditch 7, Wet Ditch 8, Wet Ditch 9, Wet Ditch 10 and Wet Ditch 11 are roadside ditches that were constructed in historically upland areas and are now linear wetlands. Historic aerial photos from 1939 and 1953 pre-dating TH 169 confirmed this. The soils in these areas are listed as 0-1% hydric soils. LiDAR 2-foot contour data shows linear depressions in Wet Ditch 2, Wet Ditch 3, Wet Ditch 4, and Wet Ditches 8, 9, 10, and 11 along TH 169.](#)

[This was confirmed by reviewing aerial photography, national hydrography data, and topographic data. 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 \(b\)\(5\).](#)