



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): March 3, 2021

ORM Number: MVP-2020-02376-RMH

Associated JDs: N/A

Review Area Location<sup>1</sup>:

State/Territory: MN City: Rochester County/Parish/Borough: Olmsted County

Center Coordinates of Review Area: Latitude 44.093997 Longitude -92.536964

**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

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

<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 independent 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.

<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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**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
Wet Ditch 1A	0.04 acres	(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 ditches 1A, 1B, 3B, 3C, 4, 5B, 6, 7B and 8 are in ditch segments along 65 <sup>th</sup> Street NW. Wet Ditches 2A, 2B and 2C are excavated ditches parallel to 65 <sup>th</sup> Street NW and a portion of 60 <sup>th</sup> Avenue NW. Wet Ditch 9A is a linear depression that parallels the 65 <sup>th</sup> Street NW roadway and the TH 52 southbound exit. The ditches appear to have developed as a result of typical roadway construction cross sections, which involves excavated ditches on either side of a raised roadway. No wetlands or tributaries were present in the area prior to the construction of the ditches. Based on this information, these wet ditches are not waters of the US under the Navigable Waters Protection Rule.
Wet Ditch 1B	0.03 acres		
Wet Ditch 2A	0.007 acres		
Wet Ditch 2B	0.08 acres		
Wet Ditch 2C	0.0026 acres		
Wet Ditch 3B	0.08 acres		
Wet Ditch 3C	0.02 acres		
Wet Ditch 4	0.0036 acres		
Wet Ditch 5B	0.03 acres		
Wet Ditch 6	0.17 acres		
Wet Ditch 7B	0.17 acres		
Wet Ditch 8	0.04 acres		
Wet Ditch 9A	0.26 acres		

**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: 65<sup>th</sup> Street Northwest Reconstruction Wetland Delineation Report Version 2.0 submitted by SRF dated November 2020. This information is sufficient for purposes of this AJD.
- ☐ Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- ☒ Photographs: Aerial and other provided by the applicant and Google Earth 1991, 2003, 2004, 2006, 2008-2011 and 2015
- ☐ 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: Olmsted County Soil Survey
- ☒ USFWS NWI maps: CorpMaps layer viewed March 1, 2021
- ☒ USGS topographic maps: 1:24K Quad Name: Douglas

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**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	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Minnesota Historical Aerial Photographs Online - 1940. LIDAR – 2 foot contours

- 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.

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