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): 5/10/2021
ORM Number: MVP-2021-00647-SSC
Associated JDs: N/A
Review Area Location[1]: State/Territory: Minnesota City: Maple Grove County/Parish/Borough: Hennepin
Center Coordinates of Review Area: Latitude 45.150051 Longitude -93.469718

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, Wetlands 1-3 and Drainageways T1, T2 & T3, shown on the enclosed figures labeled as MVP-2021-00647-SSC Page 1 of 2 through 2 of 2.

Exclusion Name	Exclusion Size		Exclusion[5]	Rationale for Exclusion Determination
Wetland 1	0.09	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 1 is a depressional feature surrounded by upland, as described in the wetland delineation report. The wetland delineation report provides National Wetland Inventory (NWI), National Hydrography Dataset (NHD), and Soil Survey figures. The figures show that Wetland 1 is located in non-hydric soils and is not mapped on the NWI or NHD. Review of desktop Google Earth imagery (March 2016, April 2017, April 2018, October 2019) does not show any surface water connection between Wetland 1 and an a(1)-a(3) water. Based on this information, Wetland 1 is not a water of the U.S. under the Navigable Waters Protection Rule (NWPR).
Wetland 2	0.12	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 2 is located along the western edge of the project area. It is connected via 2 culverts to an adjacent stormwater pond, that was constructed in upland, to the west. To the east, Wetland 2 drains by a drainageway (T1) that is ephemeral (described below). Wetland delineation report figures show that Wetland 2 is located in non-hydric soils and is not mapped on the NWI or NHD. Review of Google Earth imagery (after the stormwater pond was constructed - April 2018, October 2019) does not show any surface water connection between Wetland 2 and an a(1)-a(3) water. Based on this information, Wetland 2 is not a water of the U.S. under the NWPR.
Wetland 3	0.31	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 3 is located in the north central area of the project area. It drains to the south by a drainageway (T3) that is ephemeral (described below). Wetland delineation report figures show that Wetland 3 is located within hydric soils but is not mapped on the NWI or NHD. Review of desktop Google Earth imagery (March 2016, April 2017, April 2018, October 2019) does not show any surface water connection between Wetland 3 and an a(1)-a(3) water. Based on this

[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.

				information, Wetland 3 in not a water of the U.S. under the NWPR.
Drainageways T1, T2, and T3	Total = 2,330	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Drainageways T1 and T3 are located on the western portion of the project site and drain Wetlands 2 and 3. T3 converges with T1 approximately 150 linear feet downstream of Wetland 2. Site photos provided by the consultant show the northern portion of T1 with water present within the drainageway. However, the photos show leaf litter and woody debris accumulated throughout the drainageway. The water appears to be ponded and not flowing. Further downstream, there is no water found within the drainageway of T1. Drainageway T3 looks similar to the southern portion of T1. There is no water found within the drainageway and a defined bed and bank are difficult to distinguish. Drainageway T2 enters the site from the north and receives hydrology from an offsite constructed stormwater pond. T2 is located within a stand of trees that is viewable throughout aerial photographs dating back to 1937, however, the drainage feature is not easily distinguishable within historic photos. Site photos were also submitted for this feature. The photos show standing water within the north portion of the drainageway. The water does not appear to be flowing and has leaf litter and woody debris within the drainageway. The southern portion of the T2 does not have any water within the drainageway. The Antecedent Precipitation Tool (APT) was also utilized to examine the climate conditions for the site photos and additional aerial photographs and is discussed below in Section III. B. Additionally, none of the drainage features are noted on the National Hydrography Dataset (NHD) or found with historic USGS topographic maps. Based on all of the information provided, Drainageways T1, T2, and T3 are not waters of the U.S. under the NWPR due to having ephemeral flow.

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: Marway North Site Wetland Delineation Report dated April 23, 2021 and site photos (from April 6, 2021 and April 15, 2021) submitted on April 22, 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 – 1937; Google Earth - March 2016, April 2017, April 2018, October 2019

☐ 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: Title(s) and/or date(s).

☒ USGS topographic maps: Anoka – 1902, 1955, 1967, 2019

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	StreamStats Report dated May 3, 2021 The NationalMap – NHD layer viewed May 6, 2021
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): The APT was utilized to generate climate conditions for the site photos provided by the agent and also for Google Earth aerial images during leaf off conditions. The dates that were reviewed for the typical year assessment and their respective climate conditions generated by the APT include April 5, 2021 (Normal Conditions), April 16, 2021 (Wetter than Normal), April 28, 2018 (Normal Conditions), April 5, 2017 (Drier than Normal), and March 11, 2016 (Normal Conditions). The site photos from April 5 and April 16, 2021 are discussed above and do not differ widely from one another, however, the April 16, 2021 photos are considered wetter than normal climate conditions. The other aerial photos analyzed were taken during leaf off conditions and all appear to relatively the same. The only drainage feature visible is the northern portion of T2. A StreamStats report was also generated for this area and a drainage was delineated in the area of T1 and T3 (there was no drainage path delineated for T2). The drainage area was noted as 0.08 square miles and flow-duration statistics flow reported a value of 0.00038 ft^3/s for the 99 percent duration, these readings can be indicators of ephemeral flow. These findings, in total, are consistenet with a stream flowing only in direct response to precipitation and is therefore ephemeral.

C. Additional comments to support AJD: N/A