



**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): [August 13, 2020](#)
 ORM Number: [2019-01826-MMJ](#); [CSAH 14 AJD \(SAP 048-614-004\)](#)
 Associated JDs: [NA](#)
 Review Area Location¹: State/Territory: [MN](#) City: [Foreston and Milaca and Milo Townships](#)
 County/Parish/Borough: [Mille Lacs Co.](#)
 Center Coordinates of Review Area: Latitude 45.735137 Longitude -93.737691

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: [NA](#)
 - 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.

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.

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.

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.



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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 2019-01826-MMJ, AJD Figures 18.				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Waterbodies labeled on attached figures as: Wetlands 3b, 4a, 4b, 10a & 10b.	Total= 0.39	acre(s)	(b)(1) Non-adjacent wetland.	Wetlands 3b, 4a, 4b, 10a & 10b, meet wetland criteria but all of these wetlands are physically separated from potential downstream (a)(1)-(a)(3) waters. They are not inundated by flooding by an (a)(1)-(a)(3) water in a typical year, and they are not physically separated from an (a)(1)-(a)(3) water by an artificial dike, barrier, or similar artificial structure that would allow for a direct hydrologic surface connection between the waterbodies and any potential downstream (a)(1)-(a)(3) waters, in a typical year. Wetlands 3b, 4a, 4b, 10a & 10b are hydrologically isolated and physically remote and do not qualify as (a)(1)-(a)(4) waters. This was confirmed by reviewing Lidar imagery, the National Hydrography Dataset (NHD), historic and current aerial imagery, and National Wetland Inventory (NWI) and Soils mapping for the project site.
The ditched portions of the 20 waterbodies labeled on attached figures as: Wetland W1b, Wetland W1c, Wetland W1d, Wetland W3a, Wetland W3b, Wetland W4a, Wetland W4b, Wetland W5a, Wetland W5c, Wetland W5d, Wetland W6a, Wetland W6b, Wetland W6c, Wetland W6d, Wetland W6e, Wetland W7, Wetland W8a, Wetland W8b, Wetland W8c, & Wetland W9a	Total= 1.91	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).	The ditched portions of the waterbodies identified in column 1 were constructed to convey run-off from the adjacent roadway. They were constructed in upland and are now linear wetlands. They are not (a)(1) waters, they were not constructed in a tributary, do not relocate a tributary, and were not constructed in an adjacent wetland. This was confirmed by reviewing Lidar imagery, the National Hydrography Dataset (NHD), historic and current aerial imagery, and National Wetland Inventory (NWI) and Soils mapping for the project site. The majority of the project corridor is mapped as having hydric soil. However, state and local regulatory staff conducted a site visit and confirmed that all of the ditch features listed in column 1 were constructed in and are surrounded by upland.

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: [Bolton and Menk Delineation report dated 6/07/2019 updated 4/30/20.](#)

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.



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This information **is** sufficient for purposes of this AJD.

Rationale: **NA**

- Data sheets prepared by the Corps: **Title(s) and/or date(s)**.
- Photographs: **Aerial: Google Earth imagery 1991-2020.**
- 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: **Mille Lacs County**
- USFWS NWI maps: **MnDNR**
- USGS topographic maps: **1:24k Ronneby**

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	N/A.

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

C. Additional comments to support AJD: Waterbodies 3b, 4a, 4b, 10a & 10b, and the ditched portions of Wetland W1b, Wetland W1c, Wetland W1d, Wetland W3a, Wetland W3b, Wetland W4a, Wetland W4b, Wetland W5a, Wetland W5c, Wetland W5d, Wetland W6a, Wetland W6b, Wetland W6c, Wetland W6d, Wetland W6e, Wetland W7, Wetland W8a, Wetland W8b, Wetland W8c, & Wetland W9a are excluded waters under the Navigable Waters Protection Rule; they are not jurisdictional waters of the U.S.