



**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): 7/31/2020

ORM Number: MVP-2017-02135-MJB

Associated JDs: N/A

Review Area Location¹: State/Territory: Minnesota City: Haverhill Township

County/Parish/Borough: Olmsted

Center Coordinates of Review Area: Latitude 44.07022 Longitude -92.42512

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)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				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Erosional Channel	1,600	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	This feature runs through an agricultural field. There is not sufficient evidence to suggest it carries intermittent or perennial flow. While the erosional channel can be seen in aerial imagery in some years, it is not consistently visible and does not have clear or consistent flow. It is considered an erosional feature that likely carries ephemeral flow in direct response to rain events.
Wetland 1 Wetland 2 Wetland 3	0.02 0.08 0.01	acre(s)	(b)(1) Non-adjacent wetland.	The wetlands do not abut at least one point or side of, a paragraph (a)(1)-(3) water. Based on the USGS, FEMA maps, and elevation contours it would not be flooded by an (a)(1)-(3) water in a typical year. The NHD and USGS identify a tributary to the east of these wetlands. That historical channel has filled in with sediment and no longer carries any flow and cannot be identified due to lack of ground evidence of its existence. Water that previously would have used the historical channel now flows through the agricultural field, following the erosional channel identified. As specified above, this erosional channel is not considered a jurisdictional tributary. Based on this information, the wetlands are not abutting or adjacent to a jurisdictional tributary. The wetlands are not jurisdictional under the Navigable Waters Protection Rule and Clean Water Act.
Historical Channel	1,000	linear feet	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) subcategories.	This is a historical channel that no longer has a bed and bank nor an ordinary high water mark. It is no longer a tributary. Sediment has filled in the previous channel and it no longer carries flow. It is not a wetland. It is not a regulated resource. It does not carry or hold water.

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.

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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- ☒ Information submitted by, or on behalf of, the applicant/consultant: [Emerald Hills Drainage Improvement application dated June 2020 and additional information provided July 17, 2020](#)
This information [Select](#) sufficient for purposes of this AJD.
Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\)](#).
- ☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- ☒ Photographs: [Aerial: Google Earth accessed July 24, 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: [Title\(s\) and/or date\(s\)](#).
- ☒ USFWS NWI maps: [NWI accessed via ORM on July 24, 2020](#)
- ☒ 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
USGS Sources	National Hydrography Dataset
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	MnTOPO state topography information
Other Sources	N/A.

B. Typical year assessment(s): [The three latest years where the erosional feature can be seen on Google Earth Imagery was used for the assessment. Prior imagery does not indicate clear evidence of an erosional feature through the farm field.](#)

[Imagery Date: 5/18/2016 – Drier than normal during wet season, no flow evident in imagery](#)

[Imagery Date: 4/26/2015 – Normal Conditions during wet season, no flow evident in imagery](#)

[Imagery Date: 7/3/2011 – Normal Conditions during dry season, flow isn't clear, erosional channel appears wet in imagery](#)

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