



**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): 6/22/2020
 ORM Number: MVP-2020-00958-RQM
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Minnesota City: Hibbing County/Parish/Borough: St. Louis
 Center Coordinates of Review Area: Latitude 47.51402219 Longitude -93.00074483

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
Wetland 21	2.57	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water. Wetland 21 is a natural wetland abutting Rock Lake Creek.

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
Wetland 22	0.24	acre(s)	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	Historic air photography depicts the wetland area as created in an upland forest during the construction of a mining road.
Wetland 23	0.10	acre(s)	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	Historic air photography depicts the wetland area as created in an upland forest during the construction of a mining road.

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: [Combined AJD Request 03 June 2020](#)

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: Numerous photographs submitted by applicant's agent in Combined AJD Request 03 June 2020.](#)

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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- Corps site visit(s) conducted on: [September 17, 2019](#)
- 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: [Title\(s\) and/or date\(s\)](#).

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): [N/A](#)

C. Additional comments to support AJD: [The portion of Wetland 21 within the project area of interest is a shallow marsh/hardwood swamp wetland complex abutting Rock Lake Creek and adjacent wetlands outside the review area. Wetland 21 begins as shallow marsh directly adjacent to the toe road and transitions to hardwood swamp in the northwest direction. Vegetation in the shallow marsh portion is primarily comprised of narrow-leaf cattail \(*Typha angustifolia*\). Vegetation in the hardwood swamp portion of the complex is dominated by black ash \(*Fraxinus nigra*\) and balsam poplar \(*Populus balsamifera*\). Wetlands 22 and 23 are hydrologically connected together but are not connected to any other waters of the United States. Both Wetland 22 and 23 appear to have been created in upland incidentally to the construction of a mining road. Wetland 22 and Wetland 23 are isolated, shallow marsh wetlands \(Type 3/PEM1C\), with no connectivity to adjacent wetlands and/or aquatic resources and no discernable inlets or outlets. Vegetation in the wetlands primarily consists of narrow-leaf cattail, reed canary grass \(*Phalaris arundinacea*\), and willows \(*Salix* spp.\). There is a culvert under the toe road that provides connectivity between these two basins, however, there is no upstream inlet to Wetland 23 or downstream outlet to Wetland 22 that would provide surficial connectivity to wetlands/aquatic resources upstream or downstream of these two wetlands.](#)

[Wetlands 22 and 23 were field delineated in 2019 where vegetation, soils, and hydrology indicative of wetland were documented. Two-foot topographic contours suggests the study area slopes towards Rock Lake Creek, however, upon completion of the 2019 wetland delineation, Wetlands 22 and 23 were identified as distinct depressions in the landscape that did not have discernible outlets that connected these to Rock Lake Creek or its surrounding wetland habitat. Contour mapping for the study area was completed in 2012, prior to the construction of the toe road, which supports the interpretation of wetland development within the boundaries of Wetlands 22 and 23 as a result of toe road construction. Aerial imagery from 1991 shows the study area prior to the construction of the toe road.](#)