



**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): 10/1/2020

ORM Number: MVP-2020-01612-KAL

Associated JDs: N/A

Review Area Location¹: State/Territory: Minnesota City: Mountain Iron County/Parish/Borough: St. Louis

Center Coordinates of Review Area: Latitude 47.55 Longitude -92.563

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
1	0.03	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 1 is a fresh (wet) meadow located at the south western portion of the review area and is physically separated from a water identified in paragraph (a)(1), (2), or (3) by a berm created for the tailings basin. The berm does not allow for a direct hydrologic surface connection between the wetland and a water identified in paragraph (a)(1), (2), or (3).
2	0.07	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 2 is a fresh (wet) meadow located at the south eastern portion of the review area and is physically separated from a water identified in paragraph (a)(1), (2), or (3) by a berm created for the tailings basin. The berm does not allow for a direct hydrologic surface connection between the wetland and a water identified in paragraph (a)(1), (2), or (3).
3	1.06	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 3 is a shrub carr wetland located at the eastern portion of the review area and is physically separated from a water identified in paragraph (a)(1), (2), or (3) by a berm created for the tailings basin. The berm does not allow for a direct hydrologic surface connection between the wetland and a water identified in paragraph (a)(1), (2), or (3).
4	1.01	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 4 is a shrub carr wetland located at the central portion of the review area and is physically separated from a water identified in paragraph (a)(1), (2), or (3) by a berm created for the tailings basin. The berm does not allow for a direct hydrologic surface connection between the wetland and a water identified in paragraph (a)(1), (2), or (3).
5	0.30	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 5 is a shrub carr wetland located at the western portion of the review area and is physically separated from a water identified in paragraph (a)(1), (2), or (3) by a berm created for the tailings basin. The berm does not allow for a direct hydrologic surface connection between the wetland and a water identified in paragraph (a)(1), (2), or (3).
6	1.10	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 6 is a shrub carr wetland located at the northern portion of the review area and is

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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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				physically separated from a water identified in paragraph (a)(1), (2), or (3) by a berm created for the tailings basin. The berm does not allow for a direct hydrologic surface connection between the wetland and a water identified in paragraph (a)(1), (2), or (3).
7	2.61	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 7 is a forested wetland located at the northern portion of the review area and is physically separated from a water identified in paragraph (a)(1), (2), or (3) by a berm created for the tailings basin. The berm does not allow for a direct hydrologic surface connection between the wetland and a water identified in paragraph (a)(1), (2), or (3).
8	1.58	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 8 is a forested wetland located at the northern portion of the review area and is physically separated from a water identified in paragraph (a)(1), (2), or (3) by a berm created for the tailings basin. The berm does not allow for a direct hydrologic surface connection between the wetland and a water identified in paragraph (a)(1), (2), or (3).
9	0.11	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 9 is a forested wetland located at the western portion of the review area and is physically separated from a water identified in paragraph (a)(1), (2), or (3) by a berm created for the tailings basin. The berm does not allow for a direct hydrologic surface connection between the wetland and a water identified in paragraph (a)(1), (2), or (3).
10	0.11	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 10 is a forested wetland located at the south western portion of the review area and is physically separated from a water identified in paragraph (a)(1), (2), or (3) by a berm created for the tailings basin. The berm does not allow for a direct hydrologic surface connection between the wetland and a water identified in paragraph (a)(1), (2), or (3).
11	0.003	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 11 is a forested wetland located at the south western portion of the review area and is physically separated from a water identified in paragraph (a)(1), (2), or (3) by a berm created for the tailings basin. The berm does not allow for a direct hydrologic surface connection between the wetland and a water identified in paragraph (a)(1), (2), or (3).
12	0.91	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 12 is a forested wetland located at the southern portion of the review area and is



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			physically separated from a water identified in paragraph (a)(1), (2), or (3) by a berm created for the tailings basin. The berm does not allow for a direct hydrologic surface connection between the wetland and a water identified in paragraph (a)(1), (2), or (3).

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: [August, 2020 U.S. Steel Minntac Delineation](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

- ☐ Data sheets prepared by the Corps: [N/A](#)
- ☒ Photographs: [Aerial and Other: Aerial photos and photos included in the delineation report.](#)
- ☐ Corps site visit(s) conducted on: [N/A](#)
- ☐ Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)
- ☐ Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- ☒ USDA NRCS Soil Survey: [See August, 2020 Wetland Delineation Report](#)
- ☒ USFWS NWI maps: [See August, 2020 Wetland Delineation Report](#)
- ☒ USGS topographic maps: [See August, 2020 Wetland Delineation Report](#)

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: [Based on a review of topography and aerial imagery, Wetlands 1 through 12 are contained between multiple berms within the Tailings Basin. These wetlands have no known outlet or surface connection to other wetlands or waterbodies. The mining activity, which includes the construction and expansion of the tailings basin, has significantly effected the hydrology in the surrounding landscape to remove any connection to downstream waters. Wetland 4 is connected to a nearby wetlands via a drainage ditch and culvert under the road, however the connecting wetland has no outlet. The berms separating the remaining wetlands do not contain culverts or other potential direct hydrologic surface connections to downstream waters. The swales located immediately outside of the review area flow into the tailings basin and therefore have no connection to perennial or intermittent waters.](#)