

**APPROVED JURISDICTIONAL DETERMINATION FORM**  
**U.S. Army Corps of Engineers**

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** February 14, 2023

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** MVP-2022-01799, Krause Holstein

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Minnesota

County/parish/borough: Wright

City:

Center coordinates of site (lat/long in degree decimal format): Lat. 45.158308° N, Long. -93.999867° W.

Universal Transverse Mercator: X: 421412.483844, Y: 5001022.939417; UTM Zone 15

Name of nearest waterbody: Mississippi River

Name of watershed or Hydrologic Unit Code (HUC): Upper Mississippi Watershed, 070102040604

☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

☒ Office (Desk) Determination. Date: January 17, 2023

☐ Field Determination. Date(s):

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There are no “navigable waters of the U.S.” within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There are no “waters of the U.S.” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

**1. Waters of the U.S.:** N/A

**2. Non-regulated waters/wetlands (check if applicable):<sup>1</sup>**

☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: **The review area for this determination is limited to the boundaries of Wetlands W1, W3, W4, and W5 as described below in section F**

**SECTION III: CWA ANALYSIS**

**A. TNWs AND WETLANDS ADJACENT TO TNWs:** N/A

**B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):** N/A

**C. SIGNIFICANT NEXUS DETERMINATION:** N/A

**D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):** N/A

**E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):** N/A

**F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):**

☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.

☒ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.

☒ Prior to the Jan 2001 Supreme Court decision in “*SWANCC*,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).

☐ Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain:

☒ Other (explain, if not covered above):

<sup>1</sup> Supporting documentation is presented in Section III.F.

The review area for this determination is limited to the boundaries of Wetlands W1, W3, W4, and W5, as shown on the enclosed figures labeled 2022-01799-ACM AJD Attachments, pages 1 through 2 of 2. Based on the report submitted by the requestor, aerial imagery, including LiDAR contours, we have determined that Wetlands W3, W4, and W5 are isolated. Wetlands W3, W4, and W5 are located in isolated depressions, surrounded by uplands. The adjacent uplands all drain into Wetlands W3, W4, and W5. This is supported by the National Wetland Inventory and National Hydrography Dataset. Wetlands W3, W4, and W5 do not have a surface water connection or known shallow subsurface connections to downstream waters. The nearest tributary is the North Fork Crow River, which is approximately 1.2 miles south of Wetland W5. Wetlands W3, W4, and W5 are not located in a floodplain. Wetlands W3, W4, and W5 are surrounded by cropped fields. There are no culverts, tile lines, or inlets/outlets connected to Wetlands W3, W4, and W5.

Wetlands W3, W4, and W5 do not support links to interstate or foreign commerce; are not known to be used by interstate or foreign travelers for recreation or other purposes; do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and are not known to be used for industrial purposes by industries in interstate commerce. Wetlands W3, W4, and W5 do not have an ecological connection to a water of the United States. Therefore, the Corps has determined that Wetlands W3, W4, and W5 are not regulated by the Corps under Section 404 of the Clean Water Act.

W1 is a pond that was constructed in uplands. This was confirmed by reviewing historic imagery, which shows the area was previously cropped field. W1 was constructed sometime between 1963 and 1979. The National Wetland Inventory dataset has the area mapped as a pond, and the National Hydrographic Dataset has no aquatic resources in this area. The National Resource Conservation Service soil survey data shows the area to be partially hydric soils. There are no aquatic resources connected to W1.

The non-jurisdictional determination for this pond (W1) is in accordance with the preamble to the 1986 Corps Regulations (CFR Parts 320-330), which states that the Corps generally does not consider the following waters to be Waters of the United States; "Artificial, constructed lakes or ponds created by excavating and/or diking dry land such as farm and stock watering ponds to collect and retain water and which are used exclusively for such purpose as stock watering, irrigation, settling basins, or rice growing." Based on this review, W1 was constructed in dry land and is not jurisdictional under Section 404 of the Clean Water Act.

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- ☒ Lakes/ponds: W1, 0.65 acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☒ Wetlands: W3 (0.44 acres), W4 (0.15 acres), and W5 (0.94 acres) acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

#### **SECTION IV: DATA SOURCES.**

**A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):**

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Wetland Delineation, September 2022
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☒ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps:
- ☐ Corps navigable waters' study:
- ☒ U.S. Geological Survey Hydrologic Atlas: USGS NHD Map Service
  - ☒ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: USGS Topographic Map Service
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: USDA NRCS Web Soil Survey Map Service

- ☒ National wetlands inventory map(s). Cite name:USFWS NWI Map Service
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): University of Minnesota Libraries photographs, 1957-1979; Google Earth photograph, 1991
- or ☒ Other (Name & Date):USGS 3D Elevation (3DEP) Map Service, MNDNR Map Service
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☐ Other information (please specify):

**B. ADDITIONAL COMMENTS TO SUPPORT JD: N/A**