

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): July 1, 2022

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2014-04104-BGO, Graco Global Distribution Center

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Minnesota** County/parish/borough: **Hennepin County** City: **Dayton**

Center coordinates of site (lat/long in degree decimal format): Lat. **45.181898° N**, Long. **-93.517495° W**.

Universal Transverse Mercator: X: **459342.704751**, Y: **5003287.500105**, UTM Zone **15**

Name of nearest waterbody: **Diamond Creek**

Name of watershed or Hydrologic Unit Code (HUC): **HUC 8: 07010206 - Twin Cities Watershed**

☒ 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:

☒ Field Determination. Date(s): **June 3, 2022**

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):¹

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **The applicant (Graco Minnesota, Inc.) is proposing the development of a Global Distribution Center (Project Area) on a site that was previously authorized in October 2015 for the construction of the French Lake Industrial Park project in Dayton, MN. Upon authorization of the industrial park, the wetland mitigation was purchased, and the site was mass graded in 2018. The current proposal would fully utilize the previously developed site, but construction of an access road around the new distribution center would result in additional impacts to Wetland 1 located in the southwest corner of the Project Area.**

The review area for this jurisdictional determination is the current extent of Wetland 1 (2.92 acres), which is identified as a Type 2/3 - Fresh (wet) Meadow and Shallow Marsh wetland community on the attached figures labeled 2014-04104-BGO Figures 1-3 of 3. During mass grading of the industrial park, a swale was created along Brockton Lane to carry water to the south and dredged or fill material was discharged within the previously authorized Wetland 1 impact area. However, as a result of this past grading work, the size and configuration of Wetland 1 has expanded within the southwest corner of the Project Area and a new delineation was completed in October 2021 to identify the current boundary and type of the wetland area. See the attached Aquatic Resource Map depicting the previously authorized Wetland 1 impact areas and the 2021 Wetland Boundary for comparison (Figure 2).

A site visit was completed on June 3, 2022, to evaluate the current extent of Wetland 1 and any potential connection to jurisdictional waters. The site visit focused on reviewing the northern extent of Wetland 1 and the swale that was created along Brockton Lane to confirm the accuracy of the wetland boundary and the flow direction of the swale that is located within the delineation area. This confirmation was necessary to determine if there was any potential connection between Wetland 1 and a nearby tributary (ditch) to the

¹ Supporting documentation is presented in Section III.F.

north that appears to be connected to downstream jurisdictional waters based on desktop review. No evidence of a surface flow connection was documented between Wetland 1 and the nearby tributary during the site visit; however, it was determined that additional sample points and survey data were needed to confirm the wetland boundary and flow direction of the swale that is located within the delineation area.

Elevations were collected along the swale and provided in the attached exhibit on June 9, 2022 showing the additional survey data that was collected (Figure 3). As identified on this exhibit you can see: 1) The location of the swale within the delineation area and the nearby tributary (ditch) to the north. 2) Based on the ditch bottom elevations, the nearby tributary flows north toward 124th Avenue (elevation 927.4 to 924.8). 3) The swale within the delineation area flows south toward the isolated wetland (elevation 928.0 to 927.3). 4) The ridge between Wetland 1 and the tributary to the north is 928.5 to 928.7. Additional data forms were also completed along this ridge and provided on June 10, 2022. Sample points were taken between Wetland 1 and the nearby tributary confirming the delineation boundary is accurate and the ridge between these areas is uplands.

Based on the additional information provided, it has been determined that Wetland 1 is isolated and does not have a surface or shallow subsurface connection to any downstream waters. No evidence of a surface flow connection was documented between Wetland 1 and the nearby tributary during the site visit. In addition, there are no other potential surface flow connections to the south of Wetland 1 along Brockton Lane. This was confirmed by reviewing aerial photography, national wetland and hydrography data, and 2-foot LiDAR contour and hillshade data. All of these datasets, including the additional survey data that was collected indicate that Wetland 1 is a depressional basin with no defined topographic connectivity to downstream waters. In addition, no additional evidence of a shallow sub-surface connection was identified between Wetland 1 and the nearby tributary based on topography, flow to the south, and the concentration of surface hydrology and shallow marsh communities within the central and southern portions of the wetland basin. No ecological connection was documented based on the site development and prior disturbance that has already taken place.

This wetland does not support a link to interstate or foreign commerce because it is not known to be used by interstate or foreign travelers for recreation or other purposes; does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and is not known to be used for industrial purposes by industries in interstate commerce. Based on this information, the Corps has determined that Wetland 1 is not jurisdictional under Section 404 of the Clean Water Act.

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):

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: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .

☒ Wetlands: 2.92 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: **Level 2 Wetland Delineation Report of Graco, Upton, and Beach Properties, December 9, 2021, including additional survey data and data forms provided on June 9, 2022 and June 10, 2022, respectively**
- ☒ 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: **National Hydrography Dataset (USGS Service)**
☒ USGS NHD data.
☐ USGS 8 and 12 digit HUC maps.
- ☐ U.S. Geological Survey map(s). Cite scale & quad name:
☐ USDA Natural Resources Conservation Service Soil Survey. Citation:
- ☒ National wetlands inventory map(s). Cite name: **USFWS NWI of MN, 1974-1978**
- ☒ State/Local wetland inventory map(s): **DNR NWI Update - MN, 2010-2018**
- ☐ FEMA/FIRM maps:
☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): **Google Earth Imagery 1991-2021**
or ☐ Other (Name & Date):
- ☐ Previous determination(s). File no. and date of response letter:
☐ Applicable/supporting case law:
☐ Applicable/supporting scientific literature:
☒ Other information (please specify): **2-Foot Contours Minnesota (LIDAR Service)**

B. ADDITIONAL COMMENTS TO SUPPORT JD: N/A