

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 7, 2022

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: 2021-00237-MMG

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: MN County/parish/borough: Beltrami City: Turtle River

Center coordinates of site (lat/long in degree decimal format): Lat. 47.540004° N, Long. -94.833389° E.

Universal Transverse Mercator: 0701010104

Name of nearest waterbody: Lake Bemidji/Turtle River

Name of watershed or Hydrologic Unit Code (HUC):

☒ 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 10, 2022

☐ 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):¹

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **The review area contains 11 intrastate wetlands (W1, W2, W10, W11, W12, W13, W14, W15, W16, W17, W18).**

Wetlands labeled as 1 and 2 on the AJD attachments are both a part of the same larger wetland. This wetland is traversed by County State Aid Highway (CSAH) 20 separating the wetland. Wetland 1 is located on the south side of the highway and wetland 2 is located on the north side of the highway. Wetland 10 is a small wetland basin located on the north side of CSAH 20. Wetland 11 and wetland 12 are both small wetland basins located on the south side of CSAH 20. Wetlands labeled as 13 and 14 on the AJD attachments are both a part of the same larger wetland. This wetland is traversed by County State Aid Highway (CSAH) 20 separating the wetland. Wetland 13 is located on the south side of the highway and wetland 14 is located on the north side of the highway. Wetlands labeled as 15 and 16 on the AJD attachments are both a part of the same larger wetland. This wetland is traversed by County State Aid Highway (CSAH) 20 separating the wetland. Wetland 15 is located on the south side of the highway and wetland 16 is located on the north side of the highway. Wetland 17 and wetland 18 are both small wetland basins located on the south side of CSAH 20. Each of these wetlands is surrounded by uplands and does not have a direct hydrologic surface connection to downstream waters. This was confirmed by reviewing the supporting information in III(A) below. Soils maps show each area to be completely surrounded by non-hydric soils, the NWI map shows the areas to be surrounded by non-wetlands, and aerial imagery shows the areas surrounded by an upland forested area with no wetland hydrology or vegetation signatures connecting the wetlands to downstream jurisdictional waters. They are not separated from other WOUS by man-made dikes, barriers, or berms. The surrounding landuse is a mixture of residential development, agriculture and public lands. The nearby residential development disturbance and presence of CSAH 20 precludes an ecological connection to a WOUS.

¹ Supporting documentation is presented in Section III.F.

These aquatic resources do not support a link 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 taken and sold in interstate or foreign commerce; are not known to be used for industrial purposes by industries in interstate commerce. Therefore, the Corps has determined that wetlands 1, 2, 10, 11, 12, 13, 14, 15, 16, 17 and 18, as shown of attached figures, are not regulated by the Corps 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: W1 is 0.68, W2 is 0.28, W10 is 0.13, W11 is 0.004, W12 is 0.02, W13 is 0.26, W14 is 0.14, W15 is 0.14, W16 is 0.22, W17 is 0.04, and W18 is 0.04 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 impact maps submitted by applicant
- ☐ 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 data.
 - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: USGS Topographic Quads (USA Topo Maps)
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Websoil survey 2008 data
- ☒ National wetlands inventory map(s). Cite name: National Wetlands Inventory

- ☒ 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 1991-2015
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: