

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): November 30, 2022

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2022-01897-MMG

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Minnesota County/parish/borough: Watonwan City: Lewisville, Antrim, Fieldon

Center coordinates of site (lat/long in degree decimal format): Lat. 43.915439° N, Long. -94.42898° E.

Universal Transverse Mercator: Zone 15

Name of nearest waterbody: Perch Creek

Name of watershed or Hydrologic Unit Code (HUC): 0702001005

☒ 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: November 30, 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: **In accordance with the preamble to the 1986 Corps Regulations (33 CFR Parts 320-330) and the 2008 Rapanos guidance, the Corps does not generally consider the following activities to be waters of the United States; non-tidal drainage and irrigation ditches excavated on dry land. Further clarification is provided in the December 2, 2008 Revised Guidance on Clean Water Act Jurisdiction following the Supreme Court Decision in Rapanos v. U.S. and Carabell v. U.S. issued jointly by the Corps and EPA which indicates that ditches excavated wholly in and draining only uplands and do not carry a relatively permanent flow are not waters of the United States. According to the wetland delineation report submitted by MnDOT District 7, forty-eight linear ditches were delineated within the review area. Wet Ditch 1-3, 5-6, 10, 16-18, 20, 26-27, 34-37, 39-40, 42-43, 45, 47, 49-51, 55-57, 59-63, 66-73, 82-85, 87-89, and 91 as shown on the attached figure are outside of mapped NWI wetlands and are described as wetlands formed within upland constructed ditches to convey runoff. Aerial imagery (1991) indicates no wet signatures within or adjacent to these ditch features that appear to have been constructed at the same time as initial construction of TH 15. These features do not convey relatively permanent flow (as seen in photos from delineation report), were constructed wholly in uplands during construction, and drain only uplands (based on delineation report). Therefore, Wet Ditch (0.02 acre), Wet Ditch 2 (0.01 acre), Wet Ditch 3 (0.05 acre), Wet Ditch 5 (0.01 acre), Wet Ditch 6 (0.11 acre), Wet Ditch 10 (0.01 acre), Wet Ditch 16 (0.4 acre), Wet Ditch 17 (0.18 acre), Wet Ditch 18 (0.02 acre), Wet Ditch 20 (0.14 acre), Wet Ditch 26 (0.05 acre), Wet Ditch 27 (0.04 acre), Wet Ditch 34 (0.17 acre), Wet Ditch 35 (0.26 acre), Wet Ditch 36 (0.04 acre), Wet Ditch 37 (0.03 acre), Wet Ditch 39 (0.32 acre), Wet Ditch 40 (0.16 acre), Wet Ditch 42 (0.08 acre), Wet Ditch 43 (0.33 acre), Wet Ditch 45 (0.14 acre), Wet Ditch 47 (0.01 acre), Wet Ditch 49 (0.05 acre), Wet Ditch 50 (0.05 acre), Wet Ditch 51 (0.59 acre), Wet Ditch 55 (0.10 acre), Wet Ditch 56 (0.11 acre), Wet Ditch 57 (0.13 acre), Wet Ditch 59 (0.07 acre), Wet Ditch 60 (0.07 acre), Wet Ditch 61 (0.06 acre), Wet Ditch 62 (0.10 acre), Wet Ditch 63 (0.16 acre), Wet Ditch 66 (0.10 acre), Wet Ditch 67 (0.14 acre), Wet**

¹ Supporting documentation is presented in Section III.F.

Ditch 68 (0.24 acre), Wet Ditch 69 (0.26 acre), Wet Ditch 70 (0.16 acre), Wet Ditch 71 (0.65 acre), Wet Ditch 72 (0.62 acre), Wet Ditch 73 (0.09 acre), Wet Ditch 82 (0.11 acre), Wet Ditch 83 (0.29 acre), Wet Ditch 84 (0.14 acre), Wet Ditch 85 (0.31 acre), Wet Ditch 87 (0.06 acre), Wet Ditch 88 (0.27 acre), Wet Ditch 89 (0.76 acre), and Wet Ditch 91 (0.27 acre), as shown on the attached figures are not waters of the U.S.

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): **See Section II.B.2 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: 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: **Trunk Highway 15 (SP 8303-48) Wetland Delineation Report dated November 16, 2022 by MnDOT District 7.**
- ☐ 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:
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Watsonwan County**
- ☒ National wetlands inventory map(s). Cite name: **National Wetland Inventory**
- ☒ State/Local wetland inventory map(s): **DNR Protected Waters Inventory Map**
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

- ☒ Photographs: ☒ Aerial (Name & Date): 1991, 2003, 2006 2008, 2009, 2010, 2011, 2013, 2015, 2017, 2019
aerials in wetland delineation report
or ☒ Other (Name & Date): Ground-level photos in the delineation report
- ☐ Previous determination(s). File no. and date of response letter:
☐ Applicable/supporting case law:
☐ Applicable/supporting scientific literature:
☒ Other information (please specify): LiDAR Hillshade

B. ADDITIONAL COMMENTS TO SUPPORT JD: