

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): December 2, 2021

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: 7855 Cahill Avenue, MVP-2019-02235-RMH

C. PROJECT LOCATION AND BACKGROUND INFORMATION: This AJD considers wetlands identified as Wetland 1 within the 7855 Cahill Ave site located in Section 10, Township 27 North, Range 22 West.

State: Minnesota County/parish/borough: Dakota County City: Inver Grove Heights

Center coordinates of site (lat/long in degree decimal format): Lat. 44.836035° N, Long. -93.044036° W.

Universal Transverse Mercator: X:496519.388516, Y:4964737.120209, Zone 15

Name of nearest waterbody: Mississippi River

Name of watershed or Hydrologic Unit Code (HUC): Upper Mississippi Region Watershed (HUC 07010206)

☒ 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: December 2, 2021

☐ 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 for this jurisdictional determination was expanded from the original application and now includes Wetland 1. The wetland extends to the north beyond the review area. It is a depressional basin located within a residential area and does not have a surface or shallow subsurface hydrologic connection to any navigable waters or their tributaries. Based upon a review of aerial photographs, United States Geological Survey (USGS) 1:24K Quad and its associated National Hydrography Dataset (NHD), Natural Resource Conservation Service (NRCS) soil survey, National Wetland Inventory (NWI) maps, topography data, and the materials submitted, the wetland is determined to be hydrologically isolated with no surface water connection to a water of the United States (WOUS). The nearest mapped flowline is located 2,700 linear feet to the east. It is identified by the National Hydrography Dataset as an artificial path flowline and as an altered watercourse on the MN DNR Public Water Inventory. The Mississippi River is located approximately 1.5 miles east of the wetland but a review of imagery did not show any evidence of a surface water connection to the flowline or to the river. The review area is not within a 100-year floodplain. The wetland is surrounded by upland, and has no swales, ditches, pipes, or other means that would provide a surface or subsurface connection to a WOUS. We have determined that Wetland 1 is an isolated depression and hydrologically separated from other aquatic resources. The surrounding land use comprised of residential uses does not provide cover or habitat between the wetlands and other aquatic resources. The wetland does not have an ecological connection to a WOUS.**

The 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

¹ Supporting documentation is presented in Section III.F.

could be taken and sold in interstate or foreign commerce; and is not known to be used for industrial purposes by industries in interstate or foreign commerce. The wetland was determined to not be a WOUS and not to be jurisdictional under the CWA.

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: Wetland 1: 0.05 ac. 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 Report for 7855 Cahill Ave Site and Minneosta Wetland Conservation Act Notice of Decision with updated project area map dated November 1, 2021
- ☒ 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 1:24K Quad Name: Inver Grove Heights
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Dakota County Soil Survey
- ☒ National wetlands inventory map(s). Cite name:
- ☐ State/Local wetland inventory map(s):
- ☒ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

☒ Photographs: ☒ Aerial (Name & Date): MNGEO Spatial Commons 2009-2014, USFWS NWI, USDA, NRCS, MN DNR PWI 2015, ESRI USGS NHD 2015, ESRI Streets Basemap
or ☐ Other (Name & Date):

☒ Previous determination(s). File no. and date of response letter: MVP-2019-02235-NJP, June 15, 2020

☐ Applicable/supporting case law:

☐ Applicable/supporting scientific literature:

☐ Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD: Soil and Water Conservation District (SWCD) staff conducted a field review of the expanded project area on October 20, 2021 and verified the presence and boundary of Wetland 1.