

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): October 29, 2021

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Former Thompson Oaks Golf Course, MVP-2020-00845-RMH

C. PROJECT LOCATION AND BACKGROUND INFORMATION: This AJD considers wetlands identified as Wetlands 1-6 and Wetlands A-S within the 19 acre property located in Section 20, Township 28 North, Range 22 West.

State: Minnesota

County/parish/borough: Dakota County

City: Eagan

Center coordinates of site (lat/long in degree decimal format): Lat. 44.900386° N, Long. -93.073458° W.

Universal Transverse Mercator: X:494200.34221, Y:4971887.322047, Zone 15

Name of nearest waterbody: Mississippi River 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: October 29, 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 is the extent of Wetlands 1-6 and Wetlands A-S identified within the review area. Wetlands 1-3, 5, and A-S are PEM1B fresh (wet) meadow wetlands. The joint application states that these wetland areas were former sand traps that were created as a result of grading that occurred during construction of the golf course in the 1990's or are depressional areas that are no longer being maintained. These wetlands appear to be isolated with no discernable outlets or inlets. A review of imagery confirms these findings and supports that these areas were excavated in uplands or non-jurisdictional waters. Wetland 4 is a PEM1C shallow marsh wetland located on the northeastern corner of the project limits. The delineation reports that there is a culvert inlet to Wetland 4 on the northeastern side near Thompson Avenue, but it was not apparent what the culvert connects to nor was the culvert observed in imagery or site photos. National Hydrography Dataset (NHD) and USGS Topographic map shows a intermittent flowline adjacent to the west of wetland 4 but a review of historic imagery showed no visible surface water. Therefore, a direct hydrological surface connection to the flowline is not likely. Antecedent precipitation records identified normal conditions or wetter than normal conditions in 2017-2020 yet there was a lack of surface water flow evident so the flowline maybe ephemeral but there is no evidence that it would flow into a TNW either directly or indirectly thus would be considered to be non-jurisdictional. Wetland 6 is a PFO1C hardwood swamp located east of Crawford Drive. MNDNR Hillshade maps and LIDAR 2-foot elevation contours confirm that wetlands 4 and 6 are located within depressional areas and lack any direct surface hydrological connection. Based upon a review of aerial photographs, United States Geographical Society (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 wetlands are determined to be**

¹ Supporting documentation is presented in Section III.F.

hydrologically isolated with no surface water connection to a water of the United States (WOUS). The review area is not within a 100-year floodplain. The wetlands in review are surrounded by upland, and have no swales, ditches, pipes, or other means that would provide a surface or subsurface connection to a WOUS. We have determined that these wetlands are isolated depressions and hydrologically separated from other aquatic resources. The surrounding land use is comprised of commercial, residential, and transportation uses and does not provide cover or habitat between the wetlands and other aquatic resources. These wetlands do not have an ecological connection to a WOUS.

The wetlands do not support a link to interstate or foreign commerce because they 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 or foreign commerce. The wetlands were determined to not be 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: .01 ac, Wetland 2: .01 ac, Wetland 3: .01 ac, Wetland 4: .35 ac, Wetland 5: .25 ac, Wetland 6: .09 ac, Wetland A: .018 ac, Wetland B: .01 ac, Wetland C: .007 ac, Wetland D: .13 ac, Wetland E: .023 ac, Wetland F: .017 ac, Wetland G: .018 ac, Wetland H: .011 ac, Wetland I: .018 ac, Wetland J: .01 ac, Wetland K: .015 ac, Wetland L: .01 ac, Wetland M: .015 ac, Wetland N: .013 ac, Wetland O: .02 ac, Wetland P: .012 ac, Wetland Q: .012 ac, Wetland R: .01 ac, Wetland S: .014 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 Former Thompson Oaks Golf Course submitted by Short Elliot Hendrickson Inc. and Joint application

packet for Thompson Oaks River to River Greenway and Water Quality Improvements dated July 20, 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: Saint Paul East
- ☒ 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): MnDNR, USDA, ESRI, Google Earth, USGS, Historical Photos 1945, 1957, 1970, 2003, 2013, 2019
- or ☒ Other (Name & Date):Submitted with delineation report
- ☐ 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: Corps of Engineers Antecedent Precipitation Tool was used to determine conditions at the time the aerial photos from 2017, 2018, 2019, and 2020 reviewed were taken. Antecedent precipitation records identified normal conditions in 2018 and 2020 and wetter than normal conditions in 2017 and 2019. No surface water was visible in the flowline identified on the NHD and USGS Topographic map. No surface hydrologic connection was observed thus supporting that the boundary of Wetland 4 does not touch the boundary of WOUS.