

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): NOV 15 2017

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2006-04096-MLV (White Pines)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Minnesota County/parish/borough: Anoka City: Andover

Center coordinates of site (lat/long in degree decimal format): Lat. 45.26597° N, Long. -93.29989° W.

Universal Transverse Mercator: Zone 15; X: 476473.82, Y: 5012540.60

Name of nearest waterbody: Coon Creek

Name of watershed or Hydrologic Unit Code (HUC): Upper Mississippi-Crow-Rum, 07010207

☒ 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 13, 2017

☒ Field Determination. Date(s): September 29, 2017

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: This jurisdictional determination is only applicable to the aquatic resource named "Borrow Pit" within the review area shown on the enclosed figures labeled MVP-2006-04096-MLV Page 1 of 2 through 2 of 2. Borrow Pit was first excavated in 2006 to obtain fill material for an adjacent housing development. Currently, Borrow Pit consists of shallow marsh and wet meadow wetland communities. A review of available aerial photography indicated no wetness signatures were present in the area prior to 2006. Soils within the review area consist of Zimmerman fine sand, which is a predominantly non-hydric soil. This and the lack of historic hydrology indicators within the location of the basin indicate that the wetland properties present today are a result of excavation and that Borrow Pit was originally constructed in uplands. Available site history information indicated that excavation activities within Borrow Pit have remained active until at least the year 2015. The non-jurisdictional determination for this basin was completed in accordance with the preamble to the 1986 Corps Regulations (33 CFR Parts 320-330), which states that the Corps generally does not consider certain waterbodies to be waters of the U.S., including: Water-filled depressions created in dry land incidental to construction activity and pit excavated in dry land for the purpose of obtaining fill, sand or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the U.S. It is the Corps finding that the excavation operation within Borrow Pit has not been abandoned. Therefore, Borrow Pit is not a water of the U.S. and is not jurisdictional under the CWA.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs: N/A

¹ Supporting documentation is presented in Section III.F.

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): **Borrow Pit (0.5 acre) is a pit excavated in dry land for the purpose of obtaining fill and is not a water of the U.S.**

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: Kjolhaug Environmental Services
- ☒ 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: 1:24K MN-CEDAR
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Anoka County Soil Survey
- ☒ National wetlands inventory map(s). Cite name: USFWS NWI
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): Google Earth 1991-2017
 - 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): Anoka County LiDAR data; site history provided by consultant

B. ADDITIONAL COMMENTS TO SUPPORT JD:



Figure 1 - Site Location



KJOLHAUG ENVIRONMENTAL SERVICES COMPANY
Source: ESRI Streets Basemap

N

0 1,000 Feet

White Pines (KES 2017-133)
Andover, Minnesota

Note: Boundaries indicated on this figure are approximate and do not constitute an official survey product.

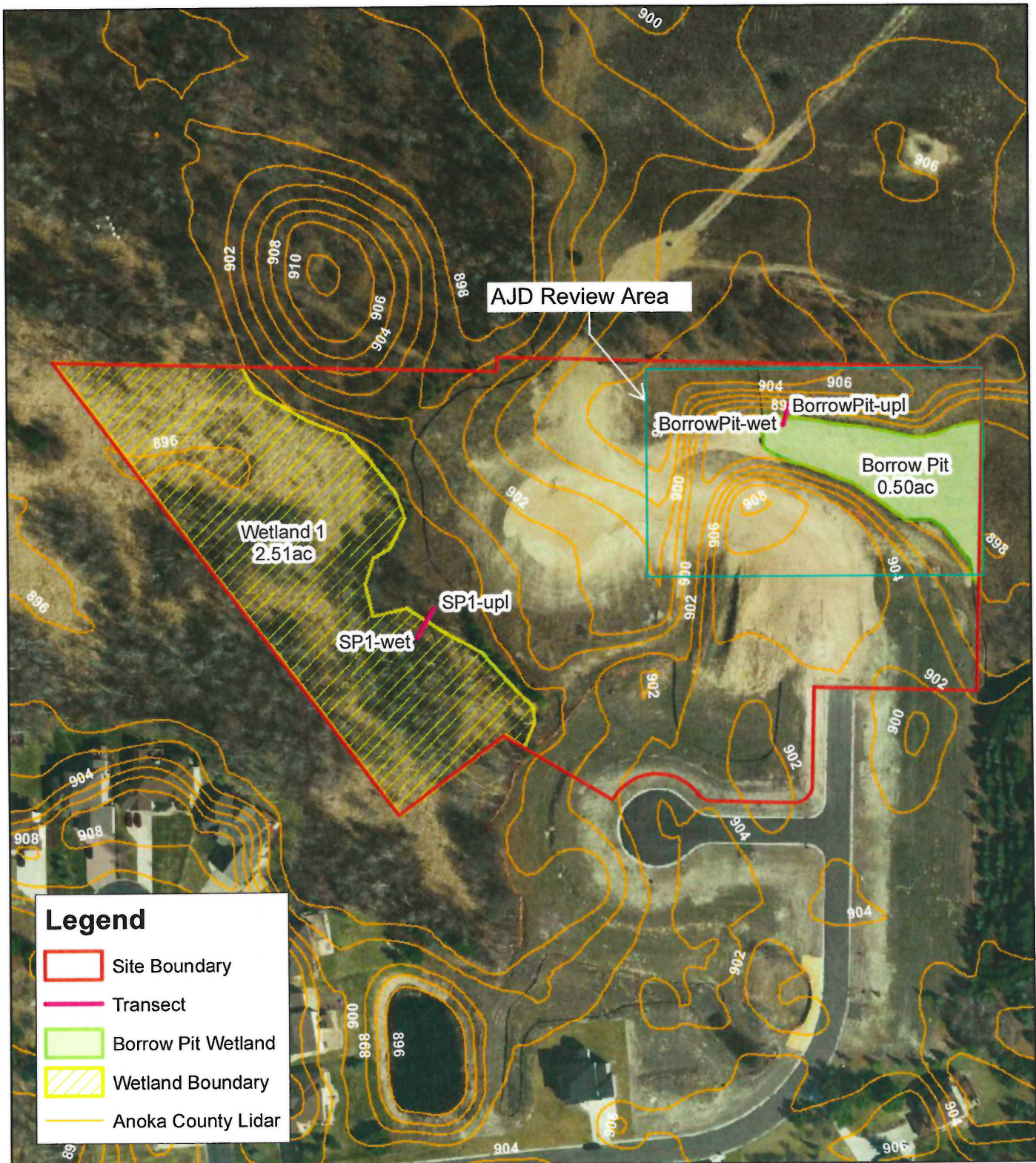


Figure 2 - Existing Conditions (2016 MnGeo Photo)