

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): **MAR 29 2016**

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2007-01794-RMM

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: MN County/parish/borough: Scott City: Prior Lake

Center coordinates of site (lat/long in degree decimal format): Lat. 44.72095° N, Long. 93.38894° W.
Universal Transverse Mercator:

Name of nearest waterbody: Credit River

Name of watershed or Hydrologic Unit Code (HUC): 07020012

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: February 18, 2106

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 16 wetlands and 8 water features that were created from mining activities. This determination applies to the 16 wetlands (Wetlands 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16) and 8 water features. A review of aerial photography, topographic maps, National Wetland Inventory maps and observations recorded during site inspections was conducted. The data does not indicate a surface or shallow groundwater connection between these features to waters of the U.S. A site visit on September 8, 2015 confirmed that the waterbodies are geographically isolated. The waterbodies do not support a link to interstate or foreign commerce. The waterbodies 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 jurisdictional under the Clean Water Act because the aquatic resources lacked links to interstate commerce sufficient to serve as a basis for jurisdiction. Wetlands 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 are determined to be geographically isolated and therefore, non-jurisdictional.

The preamble for 33 CFR 328, published in Federal Register Volume 51, Number 219, published November 13, 1986 (page 41217), states "For clarification, it should be noted that we generally do not consider the following waters to be "Waters of the United States.... (e) Waterfilled depressions created in dry land incidental to construction activity and pits 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." Water Features 1, 2, 3, 4, 5, 6, 7, and 8 were excavated in uplands to as part of an active aggregate mining operation. Active mining is occurring adjacent to the water features; the excavation activities around this feature have not been abandoned. Therefore, Water Features 1, 2, 3, 4, 5, 6, 7, and 8 are not considered to be waters of the U.S. and are not jurisdictional under Section 404 of the Clean Water Act .

¹ Supporting documentation is presented in Section III.F.

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): **Water Feature 1: 46 acre; Water Feature 2: 0.69 acre; Water Feature 3: 0.41 acre; Water Feature 4: 0.14 acre; Water Feature 5: 0.16 acre; Water Feature 6: 0.52 acre; Water Feature 7: 0.22 acre; Water Feature 8: 0.97 acre.**

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: 0.02 acre, Wetland 2: 0.20 acre, Wetland 3: 1.39 acres, Wetland 4: 0.22 acre, Wetland 5: 2.33 acres, Wetland 6: 0.31 acre, Wetland 7: 0.45 acre, Wetland 8: 0.10 acre, Wetland 9: 7.35 acres, Wetland 10: 0.45 acre, Wetland 11: 0.24 acre, Wetland 12: 0.30 acre, Wetland 13: 0.33 acre, Wetland 14: 0.06 acre, Wetland 15: 2.26 acres, Wetland 16: 0.50 acre 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: Location Map

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:

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):2013 FSA

- 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):

B. ADDITIONAL COMMENTS TO SUPPORT JD: The isoalted waterbodies described above (Wetlands 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16) 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; they do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and they are not known to be used for industrial purposes for interstate or foreign commerce. The waterbodies has been determined to be non-jurisdictional under the Clean Water Act because the wetlands lack a connection and/or relationship sufficient to serve as a basis for jurisdiction.

