

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): JAN 08 2018

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2017-03159-MLV Dan's Diesel

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Minnesota County/parish/borough: Kandiyohi City: Dovre Township

Center coordinates of site (lat/long in degree decimal format): Lat. 45.17587° N, Long. -95.01570° E.

Universal Transverse Mercator: Zone 15, X: 341619.05, Y: 5004463.55

Name of nearest waterbody: Shakopee Creek

Name of watershed or Hydrologic Unit Code (HUC): 07020004 Hawk-Yellow Medicine

☒ 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 13, 2017

☐ 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: There is one aquatic resource within the review area labeled "Wetland 1" on the enclosed figures labeled MVP-2017-03159-MLV Page 2 of 3 through Page 3 of 3. Wetland 1 is a farmed seasonally flooded basin wetland located on the Prah property west of Eagle Lake and south of Point Lake, north of the city of Willmar, Minnesota. Wetland 1 is surrounded by active row-crop agriculture to the north, east, and west. The basin borders a treeline to the south. The nearest TNW is Eagle Lake, approximately 845 linear feet east of Wetland 1. A review of Google Street View imagery confirmed there is no ditch or other aquatic resource within the treeline to the south of Wetland 1, and no culvert near State Highway 71 to the east of the basin. Wetland 1 is physically separated from Eagle Lake by State Highway 71, row-crop agriculture, and residential properties. There is no known surface inlet or drain tile within the vicinity of Wetland 1. As indicated on the data sheet provided by the consultant, labeled W1-1A, saturation was observed at a depth of approximately 32 inches below ground surface. This data was taken in upland immediately east of Wetland 1. Surface elevation of Eagle Lake is approximately 1130 feet above Mean Sea Level (MSL), whereas the surface elevation of Wetland 1 is approximately 28 feet higher at 1158 feet above MSL. The difference in surface elevations between Eagle Lake and Wetland 1 precludes a shallow subsurface connection. Available desktop data indicate that Wetland 1 is surrounded by upland, and has no swales, pipes, or other means to connect it to waters of the U.S. The area between Wetland 1 and the nearest TNW is developed and lacks any natural corridor that could support an ecological connection. Wetland 1 does not support a link to interstate or foreign commerce. Wetland 1 is not known to be used for industrial purposes by industries in interstate or foreign commerce. We have determined that Wetland 1 is an isolated basin and is not a water of the U.S.; therefore, Wetland 1 is not jurisdictional under the CWA.

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):

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: 0.3 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: American Scientific Services Inc.
- ☒ 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 Salomon Lake
- ☐ 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): Google Earth Imagery 1991 to April 2015
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): Kandiyohi County Lidar

B. ADDITIONAL COMMENTS TO SUPPORT JD: