

**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 20 2018**

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:**  
MVP-2017-03343-MVM Harvest Run (Gateway North)

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Minnesota County/parish/borough: Wright City: Otsego  
Center coordinates of site (lat/long in degree decimal format): Lat. 45.239666° N, Long. -93.548762° W.  
Universal Transverse Mercator:

Name of nearest waterbody: Crow River

Name of watershed or Hydrologic Unit Code (HUC): 07010204 Upper Mississippi Region

- ☒ 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 5, 2017  
☒ Field Determination. Date(s): October 26, 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):<sup>1</sup>

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **There are 8 wetlands and 1 stormpond within the review area; however, this determination is only for the wetlands labeled as Wetland 4, 5, 7 and 8 on the enclosed figures labeled MVP-2017-03343-MVM Page 1 of 3 through 3 of 3. These wetlands do not have a surface or shallow subsurface hydrologic connection to any navigable waters or their tributaries, as confirmed in the Gateway North Wetland Delineation Report dated September 22, 2017. Although Wetland 4 extends offsite, it does not have any connections to other waters. These wetlands are surrounded by uplands and have no swales, pipes or other means to connect them to waters of the U.S. (WOUS). We have determined that these wetlands are isolated depressions and not waters of the U.S.**

**Wetland 4, 5, 7 and 8 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. These wetlands do not have an ecological connection to other waters within the review area. The waterbodies were determined to not 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**

<sup>1</sup> Supporting documentation is presented in Section III.F.

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): **This jurisdictional determination is also applicable to Stormwater Pond 1, shown on the enclosed figure labeled MVP-2017-03343-MVM Page 2 of 3. According to available aerial imagery, Stormwater Pond 1 was constructed between 2006 and 2008. The area does not have mapped hydric soils, and does not exhibit any wetness signatures in aerial photography prior to pond construction. Therefore, Stormwater Pond 1 is a settling basin constructed in uplands and is not a water of the U.S. This decision is based on the Preamble to 33 CFR Parts 320 through 330, which states that the Corps generally does not consider certain types of waters to be "waters of the U.S.," including "Artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing."**

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 4 = 0.07, Wetland 5 = 0.13, Wetland 7 = 0.07, Wetland 8 = 0.02 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):

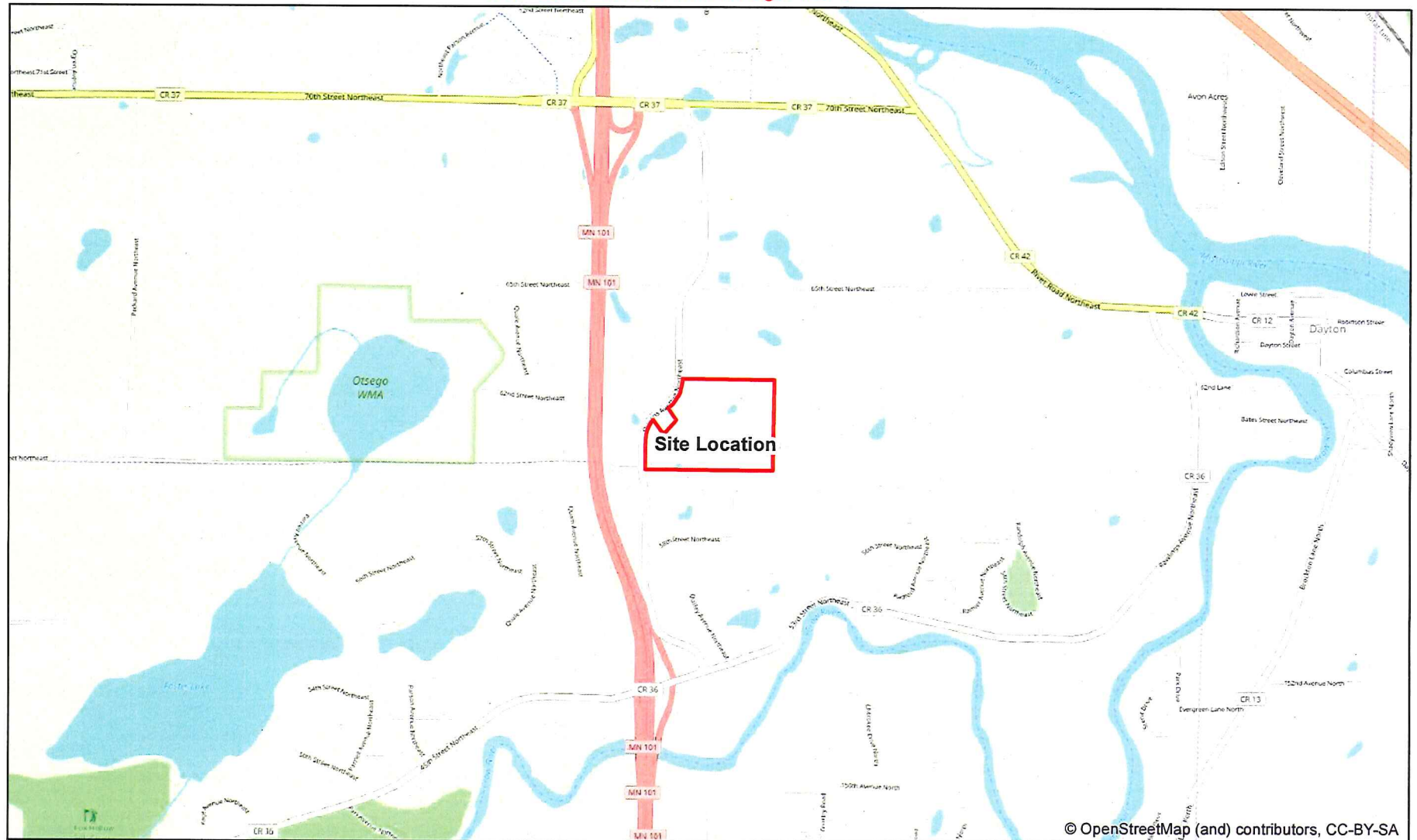
- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

#### SECTION IV: DATA SOURCES.

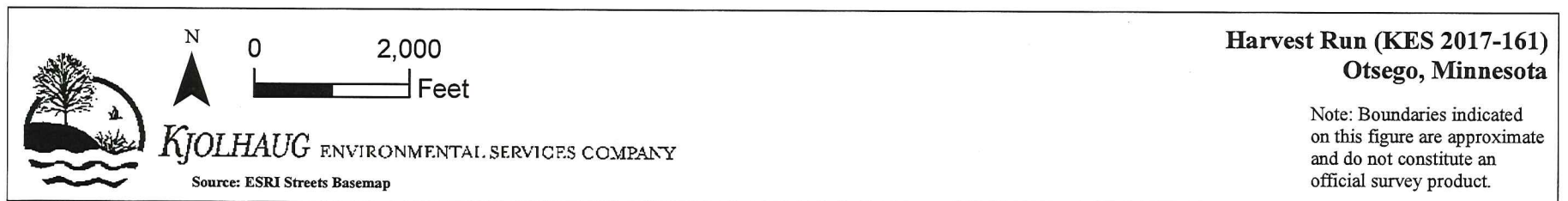
A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ 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-Rogers
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Wright 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
  - ☐ 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):

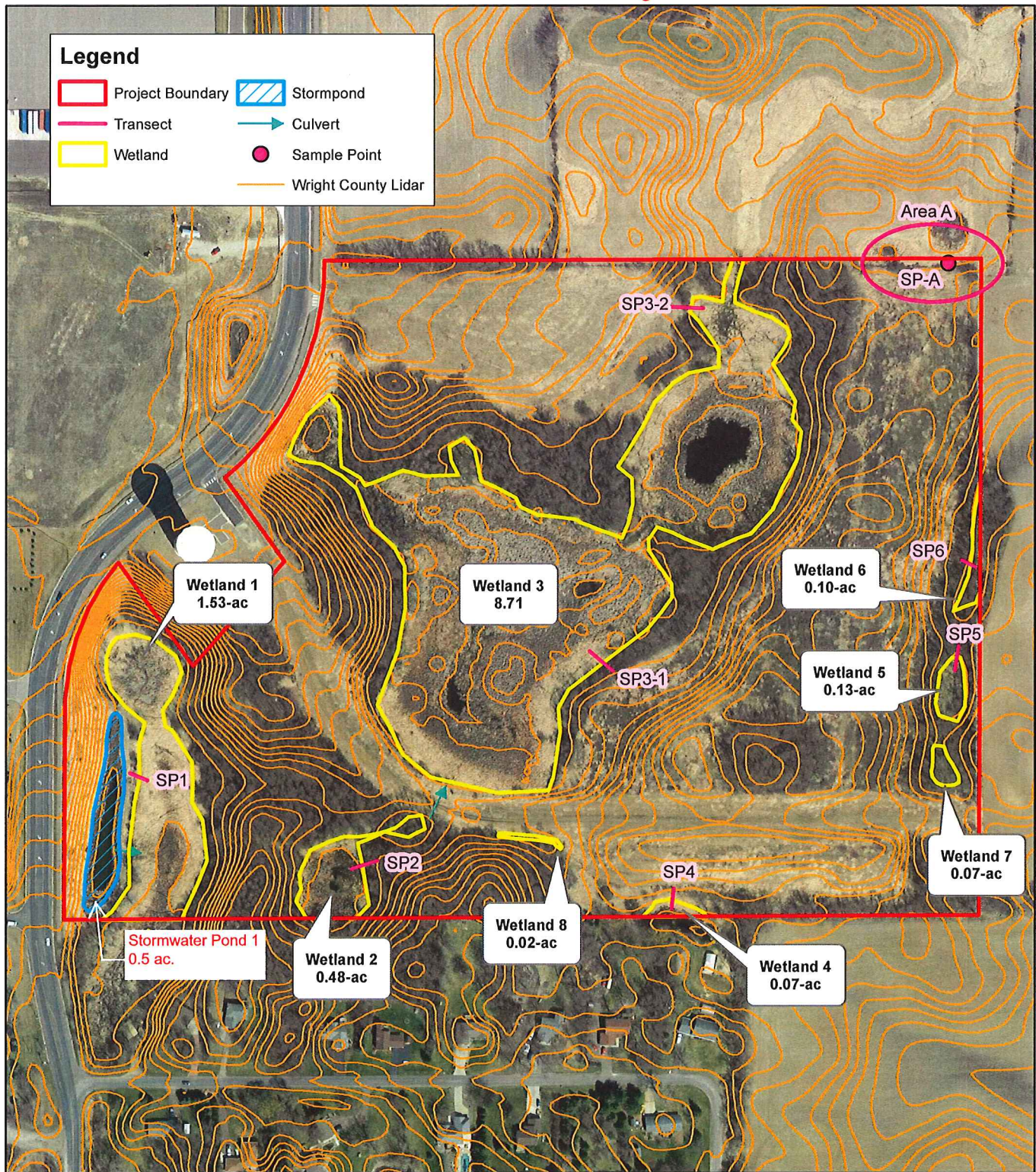
**B. ADDITIONAL COMMENTS TO SUPPORT JD:**



**Figure 1 - Site Location**







**Figure 2 - Existing Conditions (2016 MnGeo Photo)**

