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): FEB 0 9 2018

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2004-04510-MLV Blaine 75-acre Site

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

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

Center coordinates of site (lat/long in degree decimal format): Lat. 45.16680° N, Long. -93.16680° E.

Universal Transverse Mercator: Zone 15; X: 486892.04 Y: 5001493.60

Name of nearest waterbody: Sand Creek

Name of watershed or Hydrologic Unit Code (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: December 28, 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:

This jurisdictional determination pertains to Wetland 3 and Wetland 4 within the review are shown on the enclosed figures labeled MVP-2004-04510-MLV Page 1 of 2 through Page 2 of 2. Sediment Basin 1, Sediment Basin 2, and Borrow Pit are addressed in Section III item F of this form. Drainage ditches that are tributaries are present on site to the north, south and east of Wetland 3 and Wetland 4. The nearest tributary to the wetlands in question is approximately 250 linear feet to the north. Our previous determination in February 2010 found that the wetlands in question are isolated from these tributuaries. The nearest Traditionially Navigable Water (TNW) is Rice Lake, approximately 1.75 miles away. The distance between the basins and the TNW precludes a shallow subsurface connection. No natural corridor is present that could provide an ecological connection between the basins and the TNW. The wetlands in question are depressional basins and do not have a surface or shallow subsurface hydrologic connection to any navigable waters or their tributaries. The wetlands are surrounded by upland, 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 deprssions and not waters of the U.S.

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. Therefore, Wetland 3 and Wetland 4 are isolated basins, are not waters of the U.S., and are 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):

This jurisdictional determination is also applicable to Sediment Basin 1, Sediment Basin 2, and Borrow Pit shown on the enclosed figure labeled MVP-2004-04510-MLV Page 2 of 2. According to available aerial imagery, Sediment Basin 1 and Sediment Basin 2 were constructed between 2013 and 2014. The area to the east of the basins has long been utilized for various construction activities and the basins were constructed for stormwater treatment in association with those activities. Prior to 2004, the area the basins are constructed within was wetland. Activities conducted in 2004 by the Rice Creek Watershed District (RCWD) resulted in this area being effectively drained. The Corps acknowledged in its February 2010 decision that the area had been converted to uplands, and RCWD provided appropriate off-site mitigation for the loss. The area remained upland until Sediment Basin 1 and Sediment Basin 2 were constructed. Therfore, Sediment Basin 1 and Sediment Basin 2 are settling basins constructed in uplands and are not waters 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."

Borrow Pit was excavated in 2010. Our February 2010 determination concurred with the delineation of aquatic resources on site, which did not identify wetlands or any other aquatic resources within the area Borrow Pit was constructed in. Therfore, Borrow Pit was constructed in uplands. The Preamble to 33 CFR Parts 320 through 330, states that the Corps generally does not consider certain types of waters to be "waters of the U.S.," including "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 United States." According to Google Earth imagery, the excavation operation was still active between March 2016 and April 2017. Therfore, the excavation operation is not abandoned, and Borrow Pit 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: Sediment Basin 1 (0.78 acre), Sediment Basin 2 (1.37 acre), Borrow Pit (0.69 acre) acres. List type of aquatic resource: Settling basins, borrow pit.
- ☒ Wetlands: Wetland 3 (0.14 acre), Wetland 4 (0.14 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: 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 Circle Pines
- ☒ 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 Geodectic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): Google Earth Imagery, 1991-2017
  or ☐ Other (Name & Date):
- ☒ Previous determination(s). File no. and date of response letter: 2004-04510-TJF February 22, 2010
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): Anoka County Lidar

B. ADDITIONAL COMMENTS TO SUPPORT JD:

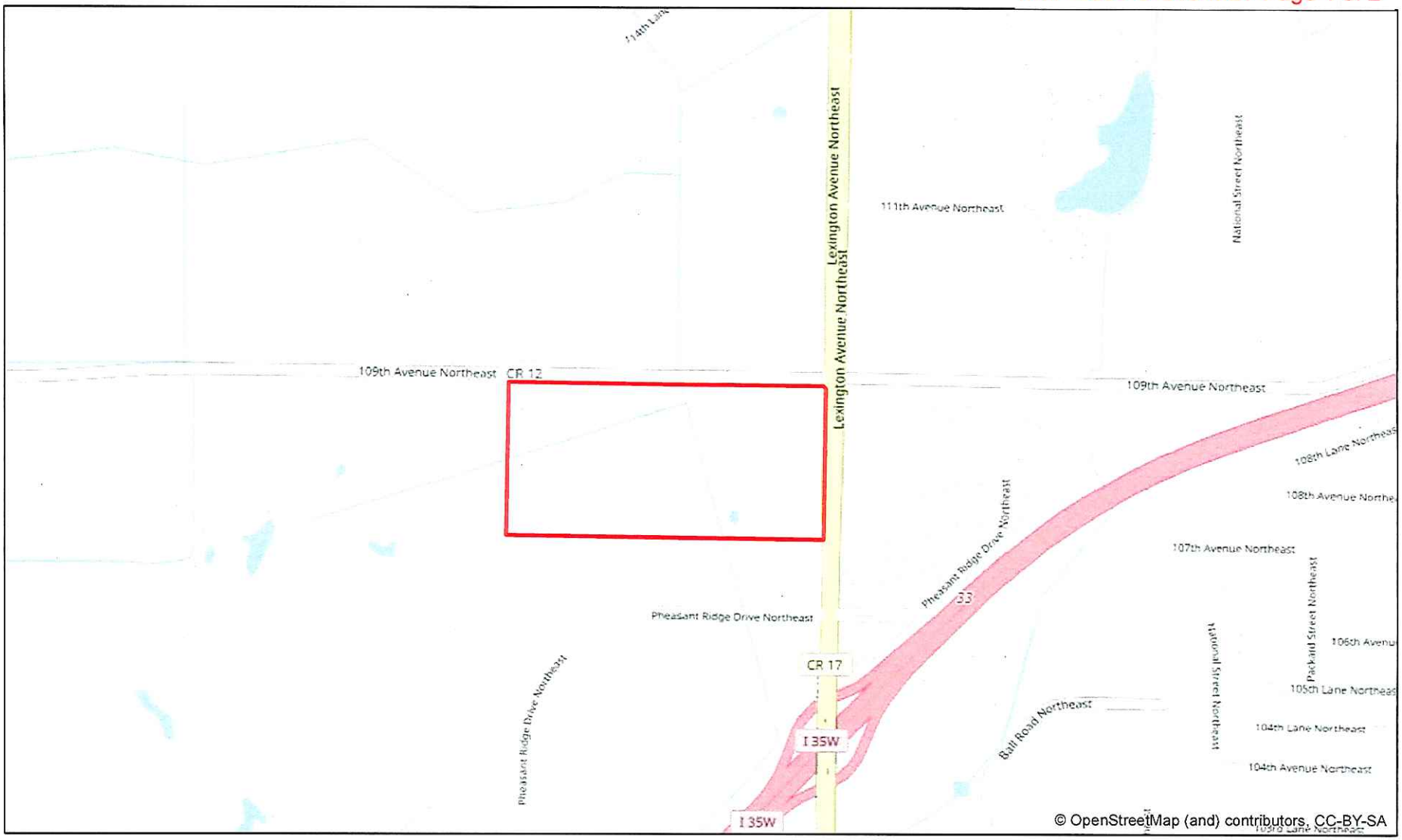


Figure 1 - Site Location

N

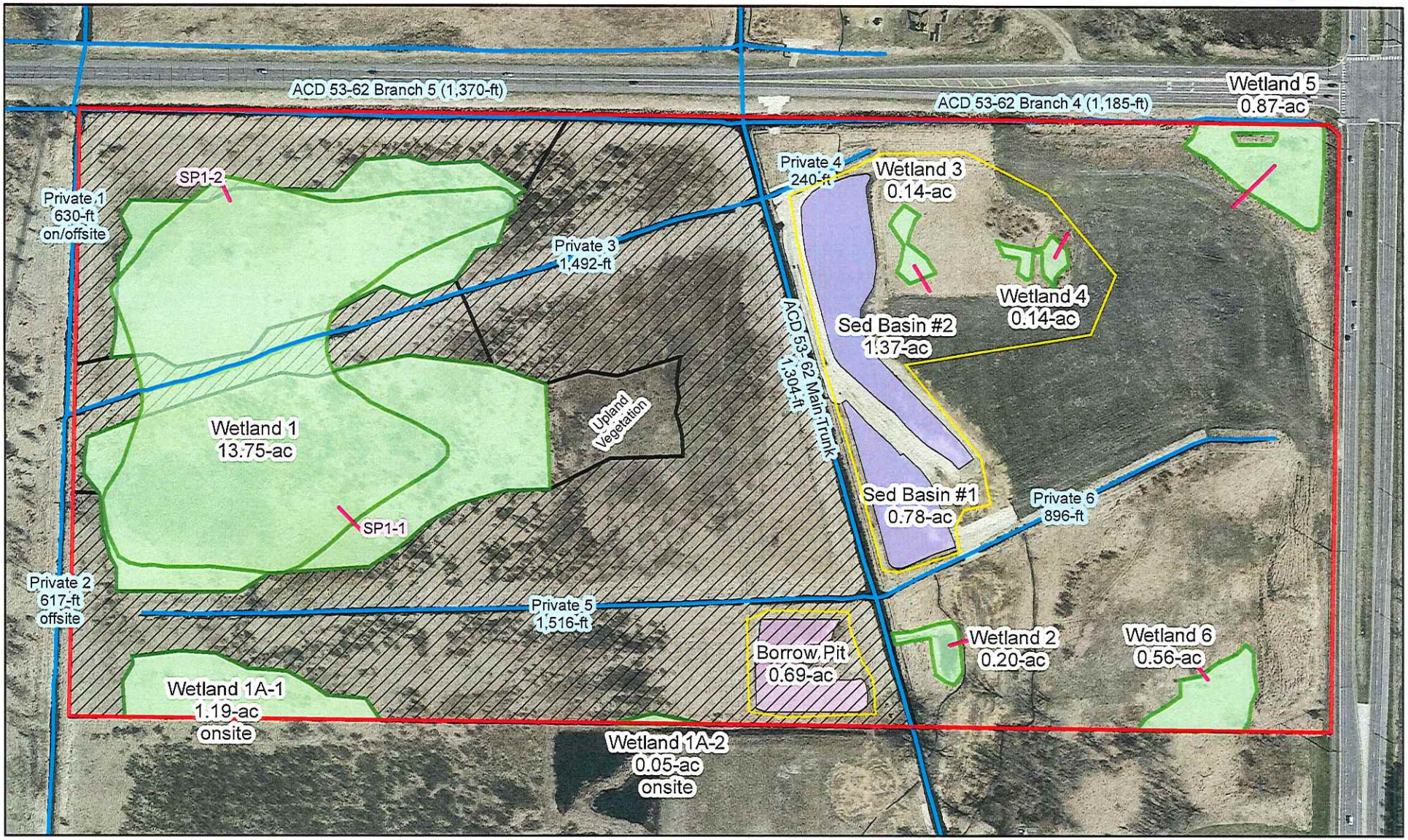
0 1,500 Feet

KJOLHAUG ENVIRONMENTAL SERVICES COMPANY

Source: ESRI Streets Basemap

Blaine 75 (KES 2017-020)
Blaine, Minnesota

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



Revised Figure 2A - Hybrid Method Delineation Existing Conditions (2016 MnGEO Photo)

N

0 250 Feet

KJOLHAUG ENVIRONMENTAL SERVICES COMPANY

Source: ESRI Streets Basemap

- Site Boundary
- Ditches (RCWD Ditch Portal)
- Transect
- Final Wetland (proposed)
- Lateral Effect 2017
- Borrow Pit
- Sediment Basin
- AJD Review Area

Blaine 75 (KES 2017-020)
Blaine, Minnesota

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