

**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 23 2017

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:**  
MVP-2011-05086-RMM (Rosemount Terminal)

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

State: Minnesota County/parish/borough: Dakota City: Rosemount  
Center coordinates of site (lat/long in degree decimal format): Lat. 44.75884° N, Long. -93.03037° W.  
Universal Transverse Mercator: Zone 15

Name of nearest waterbody: Mississippi River

Name of watershed or Hydrologic Unit Code (HUC): 07040001 (HUC 8) 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: January 25, 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):<sup>1</sup>

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  
Explain: There is one wetland in the review area, labeled as Wetland 1 on the attached figures labeled MVP-2011-05086-RMM Page 1 of 2 through Page 2 of 2. The review area is on the property of a nitrogen fertilizer processing and distribution facility, and is bordered to the north by Highway 55 and forested land, to the west by US 52 and developed industrial land, to the east by developed commercial land and agricultural land, and to the south by agricultural and forested land. A previous AJD was completed and finalized on March 19, 2012 (stating the wetland was not regulated because it is a stormwater pond), and is technically still valid until March 19, 2017. The applicant has requested a new AJD for this area as it will be expiring soon.

The review area is located approximately 1.2 aerial miles southwest of the Mississippi River, which is both the nearest traditionally navigable water (TNW) and the nearest mapped stream, as shown in the USGS NHD data and the USGS topographic quadrangle (MN-Inver Grove Heights, 1:24K). A review of aerial photography (FSA 2010, 2008, 2003, and USGS 1991) and LiDAR topography information for Dakota County, MN did not reveal any unmapped streams that would connect the wetlands to the Mississippi River. The USGS topographic quadrangle and the LiDAR topography indicate that the land north of Highway 55 and Pine Bend Trail slopes steeply down to river and its floodplain. The review site is located approximately 0.8 miles from the 500-year floodplain of the river.

The review area is part of a larger review area that was delineated by ProSource Technologies, Inc. in September 2011 and documented in a delineation report dated October 25, 2011 (US Army Corps of Engineers Regulatory number MVP-2011-5086-SEW). The current delineation review area was identified in the 2011 delineation as Stormwater Pond Area B. The National Wetland Inventory Map identified Type

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

3, PABG, freshwater pond within the review area. A Phase I delineation completed in 1996 by STS Consultants Ltd. showed that St. Paul Ammonia Products facilities created a holding pond in upland that was developed in 1973 into a retention pond for surface runoff and excess process water. Topography, the NRCS Dakota County soil survey, and the NWI indicate that the stormwater pond was excavated in uplands and was thus determined in the 2011 Approved Jurisdictional Determination to be non-jurisdictional under Section 404 of the Clean Water Act per 33 CRF 328.3. An on-site delineation was done on May 26, 2016, which classified the wetland as Type 4, PUBKGx, deep marsh. The Natural Resources Conservation Service SSURGO Database identified Urban land and Urban land-Waukegan complex, 1 to 8 percent slopes, within the 2016 wetland evaluation area, neither of which are classified as hydric.

Wetland 1 is still functioning as a stormwater pond as is not regulated under the Clean Water Act.

### 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: 0.18 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: Rosemount Terminal Wetland Delineation, December 13, 2016, Barr Engineering
- ☒ 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-Inver Grove Heights
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Dakota County Soil Survey
- ☒ National wetlands inventory map(s). Cite name: USFWS NWI
- ☒ State/Local wetland inventory map(s): MnDNR NWI
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): FSA 1991-2013  
or ☒ Other (Name & Date): Google Earth January 2017
- ☒ Previous determination(s). File no. and date of response letter: Roseport Resources Property Wetland Delineation, MVP-2011-05086-SEW, dated March 19, 2012
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): Dakota County LiDAR data

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** Wetland 1 is a stormwater pond that is not regulated under the Clean Water Act.

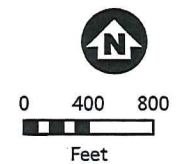


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 Wetland Delineation Area

**Area of Wetland Delineation:**  
Square Feet: 12,335.22  
Acres: 0.28



#### SITE LOCATION

Rosemount Terminal  
Wetland Delineation  
Flint Hills Resources  
Pine Bend

FIGURE 1





