

**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): 23 December 2015**

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2015-03343-MJB**

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

State: Minnesota County/parish/borough: Olmsted City: Stewartville

Center coordinates of site (lat/long in degree decimal format): Lat. 43.87048° N, Long. -92.50016° W.

Universal Transverse Mercator: 540161.11, 4857608.88

Name of nearest waterbody: North Branch Root River

Name of watershed or Hydrologic Unit Code (HUC): 07040008

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: 22 December 2015

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: **This approved jurisdictional determination (AJD) is only applicable for the area within the boundaries of wetland 3 (0.56 acre) within the project area and thus excludes the remainder of the project area. All other areas within the project area, excluding wetland 3, are covered with a preliminary jurisdictional determination (PJD). Wetland 3 is made up of a stormwater pond and a wetland that was created in upland agricultural land due to construction activities, such as grading. Grading occurred in what was upland in order to create suitable land for residential development and the creation of a road. A portion of the area did have partially hydric soils recorded by NRCS. Wetlands were not evident in the historical crop slide review for wetland 3 from 1980 to 1998 when the property was being farmed. Construction within wetland 3 can be seen beginning in 2003, with the installation of a stormwater pond, correlating in timing with the construction of new homes and roads on the property directly east. Construction temporarily ceased thereafter to be continued at a later time for economic and planning purposes as the surrounding development grew. The property has not been put to new use since construction occurred and has remained in the current condition for when construction continues. The preamble of the 1986 Regulations of 33 CFR Parts 320 through 330 states, with respect to the interpretation of the definition of waters of the U.S. given by 33 CFR 328.3, that when created in dryland, ponds built for retention of water, and waterfilled depressions created from construction activity that have not been abandoned are generally not intended to be considered waters of the U.S. The stormwater pond created in wetland 3 was created in upland to store run-off water. The remaining portion of wetland 3 can be seen in aerial photos after construction began and in a pattern that is indicative of grading for roads and residential development. Therefore, wetland 3 is not considered a waters of the U.S. and is not jurisdictional for the Corps.**

**SECTION III: CWA ANALYSIS**

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

- 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): **See Section II. B. 2.**

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:          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):

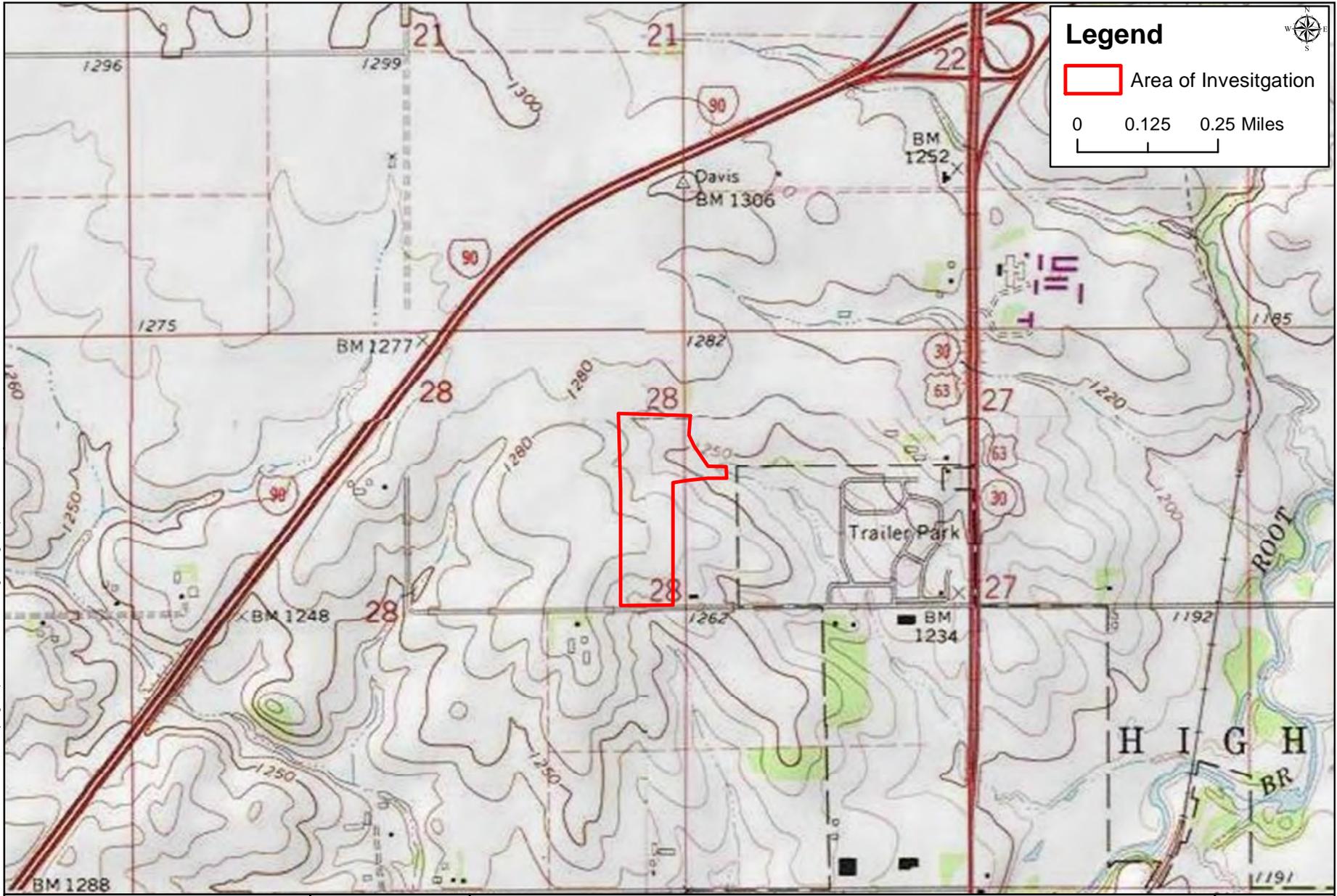
- Non-wetland waters (i.e., rivers, streams):          linear feet,          width (ft).
- Lakes/ponds:          acres.
- Other non-wetland waters:          acres. List type of aquatic resource:          .
- Wetlands:          acres.

**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: **See PCN**
- 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: **NRCS hydric soils**
- National wetlands inventory map(s). Cite name: **2014 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): **See PCN with historical crop slide review**  
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:



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**Legend**

Area of Investigation

0    0.125    0.25 Miles



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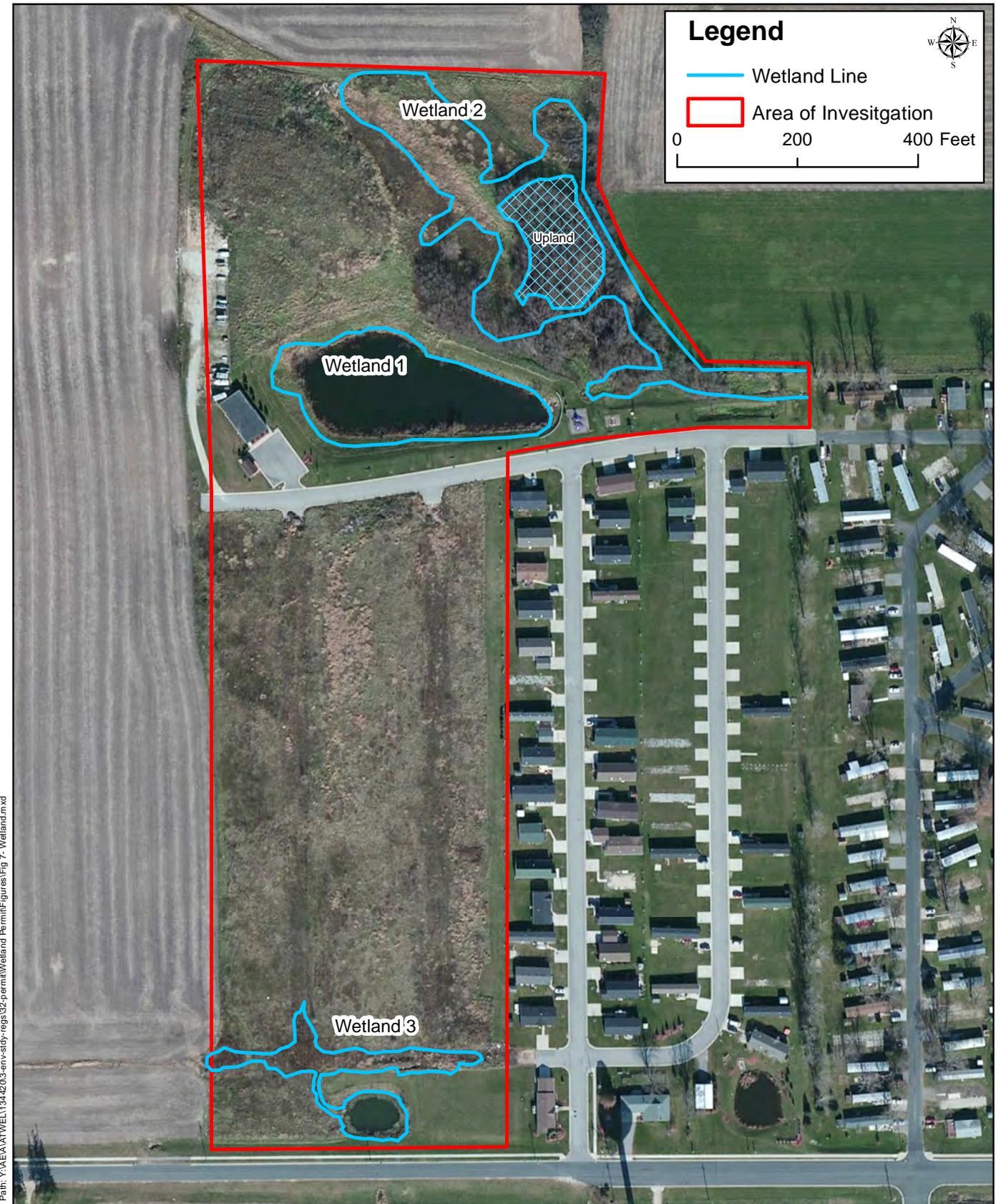
Project: ATWEL 134420  
Print Date: 11/30/2015

Map by: rbeduhn  
Projection: UTM NAD 83 Zone 15N  
Source: SEH, USGS, ESR1  
NRCS, USDA, MNDNR

**Site Location and Topographic Map**  
Northridge Development Project  
Stewartville, Minnesota

Figure  
1

This map is neither a legally recorded map nor a survey map and is not intended to be used as one. This map is a compilation of records, information, and data gathered from various sources listed on this map and is to be used for reference purposes only. SEH does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and SEH does not represent that the GIS Data can be used for navigational, tracking, or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. The user of this map acknowledges that SEH shall not be liable for any damages which arise out of the user's access or use of data provided.



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	<p>3535 VADNAIS CENTER DR. ST. PAUL, MN 55110 PHONE: (651) 490-2000 FAX: (888) 908-8166 TF: (800) 325-2055 www.sehinc.com</p>	<p>Project: ATWEL 134420 Print Date: 11/30/2015 Map by: rbeduhn Projection: UTM NAD 83 Zone 15N Source: SEH, ESRI, MNDNR NRCS, USGS, USDA</p>	<p><b>Wetland Delineation Results</b> Northridge Development Project Stewartville, Minnesota</p>	<p>Figure 2</p>
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