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): 9/16/2017


C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: MN  County/parish/borough: Washington  City: Cottage Grove
   Center coordinates of site (lat/long in degree decimal format): Lat. 44.779398° N, Long. -92.974548° W.
   Universal Transverse Mercator: 502013.662697; 4958445.116617; Zone 15
   Name of nearest waterbody: Mississippi River
   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: September 15, 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):
      ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
      Explain: The review area is approximately 220 acres in size. The non-jurisdictional waters are shown as the open water area of the Nelson Sand and Gravel Mine pit on Grey Cloud Island. Mining operations began on an upland portion of the site in the 1950s and it is currently an active sand and gravel mine. This jurisdictional determination was completed in accordance with the preamble to the 1986 Corps Regulations (33 CFR Parts 320-330), which states that the Corps does not generally consider the following to be waters of the U.S.: “Waterfilled depressions created in dry land incidental to construction activities, and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel, are not considered Waters of the United States 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.” (33 CFR 328.3(a) & Preamble to 33 CFR Parts 320 through 330, 1986)

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

1 Supporting documentation is presented in Section III.F.
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): The Nelson Mine pit lake, identified above and on the attached figure, was constructed in an upland area. It does not meet the definition of waters of the United States in 33 CFR 328.3(a).

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.
☐ 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: Pool 2 Dredged Material Management Plan (Draft), MVP-USACE
☒ 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 St. Paul Park
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Washington Co
☒ National wetlands inventory map(s). Cite name: NWI historic and updated
☒ State/Local wetland inventory map(s):
☐ FEMA/FIRM maps:
☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): 1927 orthophoto, FSA 1991, Google Earth, 2015-2016
☐ 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: According to the preamble to the Corps 1986 regulations, the mine pit on Grey Cloud Island referenced above and shown on the attached figure is not a water of the U.S. (WOUS) and is not regulated under Section 404 of the CWA. It was excavated in dry land for the purpose of obtaining fill, sand, or gravel and is therefore not considered Waters of the United States.
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 (33 CFR 328.3(a)).