

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):

SEP 01 2017

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2015-03075-RMM

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: MN County/parish/borough: Carver City: Chanhassen

Center coordinates of site (lat/long in degree decimal format): Lat. 44.83725° N, Long. 93.55744° W.

Universal Transverse Mercator:

Name of nearest waterbody: Bluff Creek

Name of watershed or Hydrologic Unit Code (HUC): 07020012

☒ 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: July 20, 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: There are 11 wetlands and 2 tributaries located within the review area. This AJD is limited to the boundaries of Wetlands 1, 1/2, 2, 3, 5, 7, 8, 9, and the north tributary. Google Earth aerial imagery, USGS topographic map (MN-Prior Lake), NWI data, and NHD were reviewed. Wetlands 1, 1/2, 2, 3, 5, 7, 8, 9, and the north tributary were determined to be hydrologically isolated with no surficial connection to waters of the U.S. The rationale is provided below.

Wetlands 1, 1/2, 2, 7, 8, 9, and the north tributary are all hydrologically connected and they all discharge off the property at the same point. These waters flow east through the north tributary into a culvert which flows under Powers Boulevard and discharges into a storm water pond that was created as part of the Highway 2012 construction project. The storm water pond has a controlled outlet which is a large standpipe. The water does not routinely or even seasonally enter the outlet of the storm water pond. The standpipe the water would enter to leave the storm water pond is generally greater than 4'. Water rarely rises to that level. These waters do not have a surface or shallow subsurface connection to any other waters of the U.S.

Wetland 3 is located on the west-central part of the property. After a review of historical photos from Google Earth and looking at LiDAR data on Carver County's website, it is clear the resource is hydrologically isolated from any water of the U.S. The 1991 photo clearly shows the basin in adjacent to agricultural fields with no surface connection to any other water. Starting in 2006 a development was constructed to the west of Wetland 3. The wetland is now a depressional basin bound by the development to the west and steep topography to the east. This water does not have a surface or shallow subsurface connection to any other waters of the U.S.

¹ Supporting documentation is presented in Section III.F.

Wetland 5 is located in the central part of the property and is located on a hill side. The wetland is farmed through annually with some years having crop stress. This water does not have a surface or shallow subsurface connection to any other waters of the U.S.

The waterbodies 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 for interstate or foreign commerce. The waterbodies are determined to be non-jurisdictional under the Clean Water Act because the waterbodies lack connections and relationships sufficient to serve as a basis for jurisdiction

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): 714 linear feet 2 width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☒ Wetlands: Wetland 1: 1.1 acres, Wetland 1/2: 0.19 acre, Wetland 2: 2.26 acres, Wetland 3: 0.67 acre, Wetland 5: 0.35 acre, Wetland 7: 0.02 acre, Wetland 8: 0.08 acre, Wetland 9: 0.10 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:
- ☒ 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:

- ☒ National wetlands inventory map(s). Cite name: 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
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:



Figure 1 - Site Location & Property Boundary



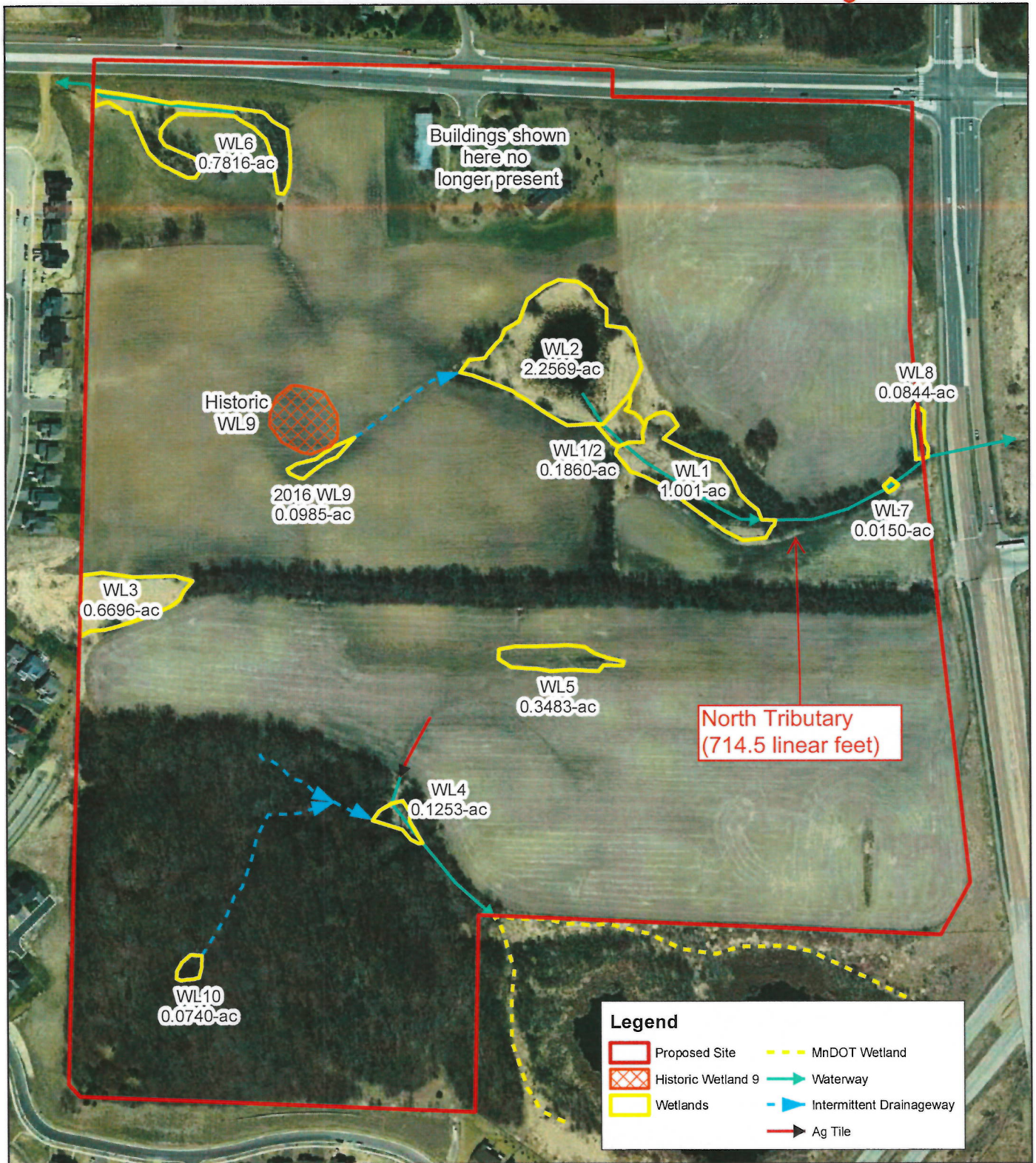


Figure 6 - Delineated Wetlands (2016 Metro Aerial)