



**US Army Corps
of Engineers**

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): 05 May 2020

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: St Paul District, CSAH 5 / 15 Alignment, MVP-2016-03066-JRH

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Minnesota** County: **Kandiyohi** City: **Willmar**

Center coordinates of site (lat/long in degree decimal format): **Latitude: 45.091668°, Longitude: -95.102149°**

Name of nearest waterbody:

Name of watershed or Hydrologic Unit Code (HUC): **Town of Priam – Hawk Creek 070200040702**

☒ Check if map/diagram of review area is 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: **05 May 2020**

☐ Field Determination. Date(s): **NA**

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: NA

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: **The review area for this determination includes two areas identified as Wetland 4 and Wetland L on the enclosed MVP-2016-03066-JRH AJD attachments.**

Wetlands 4 and L may historically have shared connection to nearby wetlands; however, the construction of the railway line and CSAH 15 have cut off connectivity and they now function as the northeast and southwest extensions of Wetland Ditch 4. Wetland Ditch 4 is situated between the railway line and CSAH 15 and does not carry a relatively permanent flow of water into waters of the U.S. (WotUS). Per the Rapanos decision, the evaluated ditch is not a WotUS because it is not a tributary and does not have a significant nexus to a traditionally navigable water; this was confirmed by reviewing aerial photography and the supplemental information provided by Kandiyohi County in the permit application.

SECTION III: CWA ANALYSIS

A. TNWS AND WETLANDS ADJACENT TO TNWS: NA

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY): NA

C. SIGNIFICANT NEXUS DETERMINATION: NA

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS – THE SUBJECT WATERS/WETLANDS ARE: NA

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: NA

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

¹Supporting documentation is presented in Section III.F.

- ☐ 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 estimated 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 judgement (check all that apply): **NA**

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (feet)
- ☐ 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): **NA**

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (feet)
- ☐ 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 sheet mislabels Wetland 2a soil group as canisteo clay loam instead of udorthents, loamy; delineation report identifies Wetland 2a as jurisdictional instead of non-jurisdictional ditch draining uplands.**
- ☐ Data sheets prepared by the Corps:
- ☒ U.S. Geological Survey Hydrologic Atlas:
- ☐ USGS NHD data.
- ☒ USGS 8 and 12 digit HUC maps. **See attached**
- ☐ U.S. Geological Survey map(s).
- ☒ USDA Natural Resources Conservation Service Soil Survey.
- ☒ National wetlands inventory map(s). **See attached**
- ☐ 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 Aerial photography**
- ☐ 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: NA