

**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):** February 5, 2022

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** MVP-2015-01226-ARC

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

State: MN County/parish/borough: St. Louis City: Biwabik

Center coordinates of site (lat/long in degree decimal format): Lat. 47.4984° N, Long. -92.3966° W.

Universal Transverse Mercator:

Name of nearest waterbody:

Name of watershed or Hydrologic Unit Code (HUC): 4010201

☒ 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: March 1, 2021

☒ Field Determination. Date(s): September 14, 2020

**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: **The aquatic resources that were assessed, Wetlands 1, 3, 5B, 9A, 10C, 11C and 11D, are located in the existing 6.6 mile snowmobile trail corridor that connects Biwabik, Minnesota with the Iron Range Off Highway Vehicle Recreation Area (IROHVRA) near Gilbert, Minnesota. Wetlands 1, 9A, 10C, 11C and 11D are small depressional basins that are surrounded by uplands and do not contain outlets. Precipitation flows from the surrounding uplands into the small basins where it pools and slowly infiltrates into the water table. They do not contribute a surface or shallow subsurface connection to Waters of the United States (WOUS).**

**Wetlands 3 and 5B consist of man-made ditches excavated in uplands to contain or direct precipitation from Maple Drive (Wetland 3) and Trunk Highway 135 (Wetland 5B). These ditches were constructed in uplands, drain only uplands, and do not carry a relatively permanent flow of water into WOUS.**

**Regulatory conducted a field review of the wetland delineation and jurisdictional status on September 14, 2020. The desktop and field review concluded Wetlands 1, 9A, 10C, 11C and 11D show no signs of surface or subsurface hydrologic, or ecological, connectivity to downstream waters or navigable WOUS and Wetlands 3 and 5B are ditches constructed in uplands, drain only uplands, and do not carry a relatively permanent flow into WOUS.**

**We have reviewed available desktop resources such as aerial photography, LIDAR derived elevation models and contours, flow path information, and stream and wetland mapping to make an approved jurisdictional determination of the wetlands. We determined that the wetlands have no hydrologic or ecologic connection to a Navigable water of the U.S.**

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

The aquatic resources within the review area are not known to be used by interstate or foreign travelers for recreation or other purposes; and are not known to be used for industrial purposes by industries in interstate commerce. The aquatic resources are either geographically isolated or upland ditches and do not support a link to interstate or foreign commerce. Therefore the resources in the review area, are not waters of the United States.

### **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): **See Section II.B.2 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: 0.19 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: SEH Wetland Delineation 2020, Updated memo following site visit, SEH AJD request
- ☒ 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: WebSoilSurvey
- ☒ National wetlands inventory map(s). Cite name: USFWS NWI of MN, 1974-1978
- ☒ State/Local wetland inventory map(s): DNR NWI Update - MN, 2015
- ☐ FEMA/FIRM maps:

- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): MnGEO WMS service (multiple photos)  
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): National Regulatory Data Viewer

**B. ADDITIONAL COMMENTS TO SUPPORT JD: N/A**