

**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):** November 29, 2021

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** Suko Property, MVP-2021-00952-RMH

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:** This AJD considers wetlands identified as 3,4, and 5 within 11.57 acre property located in Section 26, Township 119 North, Range 24 West.

State: **Minnesota** County/parish/borough: **Hennepin County** City:

Center coordinates of site (lat/long in degree decimal format): Lat. **45.091567° N**, Long. **-93.683676° W**.

Universal Transverse Mercator: **X:446201.803551, Y: 4993349.718311, Zone 15**

Name of nearest waterbody: **Sarah Creek**

Name of watershed or Hydrologic Unit Code (HUC): **Upper Mississippi Region Watershed (HUC 07010204)**

☒ 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: **November 29, 2021**

☐ 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: **The review area includes Wetland 3 (0.61 acres), Wetland 4 (0.05 acres), and Wetland 5 (0.01 acres). Wetland 3 is a Type 2/3/5 (PUBGx/PEM1C/PEM1A) wetland on the NWI map, and is located in an area mapped as Hamel (Partially Hydric) and Angus-Kilkenny (Predominantly Non-Hydric) on the soil survey. No inlets or outlets were observed within Wetland 3. The eastern portion of the wetland was visible in historic imagery from 1937. This is the only wetland evident in the historic imagery. Wetland 4 is a Type 1 (PEM1Ax) excavated seasonally flooded basin that was not shown on the NWI map but fell in an area mapped as Hamel (Partially Hydric) on the soil survey. No inlets or outlets were observed within Wetland 4. Wetland 5 is a Type 2 (PEM1B) that was not shown on the NWI map and is located in an area mapped as Angus Loam (Predominantly Non-Hydric). Based upon a review of aerial photographs, topographic maps, 2-foot LIDAR contours, NWI maps, and the Hennepin County Soil Survey, Wetlands 3-5 have been determined to be geographically isolated with no surface water connection to a water of the United States. Wetlands 3-5 are not navigable and 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 by industries in interstate commerce. Wetlands 3-5 were determined to not be jurisdictional under the CWA because the wetlands lack links to interstate commerce 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

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

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): linear feet width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☒ Wetlands: Wetland 3 (0.61 acres), Wetland 4 (0.05 acres), and Wetland 5 (0.01 acres) 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: Suko Property Wetland Delienation Report, Joint Application for Activities Affecting Water Resources in Minnesota dated May 18, 2021 and additional information received July 13, 2021.
- ☒ 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: USGS 1:24K Quad Name: Rockford
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Hennepin County Soil Survey
- ☒ National wetlands inventory map(s). Cite name: National Regulatory Viewer <https://arcportal-ucop-corps.usace.army.mil/s0portal/apps/MapSeries/index.html?appid=3511c6ce82904c779e105a89a7bf4cd9>
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): MNGEO Photo Imagery 2020
  - or ☒ Other (Name & Date): Minnesota Historical Aerial Photographs Online [http://geo.lib.umn.edu/Hennepin\\_County/y1937/WN-11-995.jpg](http://geo.lib.umn.edu/Hennepin_County/y1937/WN-11-995.jpg)
- ☐ 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:** A site visit was completed on 6/7/21 by members of the Technical Evaluation Panel (TEP) committee. As a result of the site visit, Wetland 5 was added to the delineation report as recommended and was approved on July 13, 2021.