

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): March 1, 2022

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2006-06699-SSC, Harmony Estates Phase 3

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Minnesota County/parish/borough: Anoka City: Ham Lake

Center coordinates of site (lat/long in degree decimal format): Lat. 45.249546° N, Long. -93.198507° W.

Universal Transverse Mercator: Zone 15

Name of nearest waterbody: Coon Creek

Name of watershed or Hydrologic Unit Code (HUC): Upper Mississippi Region; 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: January 25, 2022

☐ 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: **This AJD is limited to the boundaries of Wetland E (WL-E), Upland Ditch 4 (UD-4), and Upland Ditch 5 (UD-5). Based on the wetland delineation report submitted by the requestor and aerial photos, we have determined that the wetland is isolated with boundaries that transition to uplands. Additionally, the ditches are not jurisdictional features based on being excavated in and draining only uplands and not carrying a relatively permanent flow of water.**

WL-E is surrounded by upland as shown on figures submitted in the wetland delineation report. The soils within this area are denoted as Zimmerman fine sand, 1 to 6 percent slopes (non-hydric soil) and Lino loamy fine sand, 0 to 4 percent slopes (non-hydric soil). The National Wetland Inventory (NWI) does not denote this wetland. Review of Google Earth imagery shows the wetland remaining consistent throughout recent years and review of the National Hydrography Dataset (NHD) does not show any surface water connections to a WoUS.

UD-4 and UD-5 were constructed prior to 1938. UD-4 was additionally excavated to the north and west between 2003 and 2004 to the west of a nearby wetland (Wetland V). The delineation report and additional information from the wetland delineator clarifies that there is existing upland between the more recently constructed segment of UD-4 and Wetland V. UD-4 and UD-5 were constructed wholly in upland, drain only uplands, and do not carry relatively permanent flow of water into waters of the U.S. (WOUS). This was confirmed by review of aerial imagery, NHD, and the wetland delineation report.

Wetland E does not support links to interstate or foreign commerce; is not known to be used by interstate or foreign travelers for recreation or other purposes; does not produce fish or shellfish that could be taken

¹ Supporting documentation is presented in Section III.F.

and sold in interstate or foreign commerce; and is not known to be used for industrial purposes by industries in interstate commerce. The wetland does not have an ecological connection to a WoUS. Furthermore, the area is hydrologically isolated with no surface water connections to a WoUS. Therefore, the Corps has determined that Wetland E is not regulated by the Corps under Section 404 of the Clean Water Act. Additionally, per the Rapanos decision, UD-4 and UD-5 are not jurisdictional based on being constructed in uplands, draining only uplands, and having less than relatively permanent flow.

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**

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: UD-4: approx 396 linear feet, 0.06 acres; UD-5: approx 50 linear feet, 0.01 acres. List type of aquatic resource: Upland Ditch.
- ☒ Wetlands: Wetland E 0.13 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: Harmony Estates 2nd Addition Delineation dated May 7, 2021 and Harmony Estates Phase 3 Wetland Permit Application dated January 12, 2022
- ☒ 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: **SoilWeb**
- ☒ 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 1991-2021; MHAPO 1938**
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: