

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): October 7, 2021

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: 2021-00335-MCG

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Minnesota County/parish/borough: Yellow Medicine, Lincoln, and Lyon City: Wergeland,
Alta Vista, Eidsvold, Westerheim, Grandview, & Fairview Townships

Center coordinates of site (lat/long in degree decimal format): Lat. 44.552006° N, Long. -95.997252° W.

Universal Transverse Mercator: UTM Zone 15

Name of nearest waterbody: Public Water Identification M-005-146-042-000.6, Public Water Identification
M-055-146-040, Public Water Identification M-005-146-040-005, Public Water Identification
M-055-126-036-008-001, Public Water Identification M-005-126-036-008

Name of watershed or Hydrologic Unit Code (HUC): Hawk Yellow Medicine Watershed - 07020004

☒ 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: September 3, 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):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 jurisdictional determination consists of 47 roadside ditches identified as Wet Ditch 1, Wet Ditch 3, Wet Ditch 4, Wet Ditch 5, Wet Ditch 6, Wet Ditch 7, Wet Ditch 8, Wet Ditch 9, Wet Ditch 10, Wet Ditch 11, Wet Ditch 12, Wet Ditch 13, Wet Ditch 14, Wet Ditch 15, Wet Ditch 16, Wet Ditch 18, Wet Ditch 19, Wet Ditch 20, Wet Ditch 21, Wet Ditch 22, Wet Ditch 23, Wet Ditch 24, Wet Ditch 26, Wet Ditch 27, Wet Ditch 28, Wet Ditch 29, Wet Ditch 30, Wet Ditch 31, Wet Ditch 32, Wet Ditch 33, Wet Ditch 34, Wet Ditch 35, Wet Ditch 36, Wet Ditch 37, Wet Ditch 38, Wet Ditch 39, Wet Ditch 40, Wet Ditch 41, Wet Ditch 42, Wet Ditch 43, Wet Ditch 44, Wet Ditch 45, Wet Ditch 46, Wet Ditch 48, Wet Ditch 49, Wet Ditch 50, Wet Ditch 51 on the enclosed figures labeled 2020-00335-MCG AJD Attachments, Pages 1-38 of 38. The total area of non-jurisdictional waters/features is approximately 5.36 acres.**

The roadside ditches were constructed in uplands to convey runoff from the adjacent roadway and agricultural fields, drain only uplands, and do not carry a relatively permanent flow of water into waters of the U.S. (WOUS). This was confirmed by reviewing aerial photography, national hydrography data, and the wetland delineation report. Per the Rapanos decision, the evaluated ditches are not WOUS because they are not tributaries and do not have a significant nexus to traditionally navigable waters.

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

¹ 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): **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: 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: **Trunk Highway 68 Improvements (S.P. 4210-49) Wetland Delineation, January 25, 2019**
- ☒ 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: **NHD - High Resolution - MN, 2015**
 - ☒ USGS NHD data.
 - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: **1:24k Porter SW**
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation:
- ☒ National wetlands inventory map(s). Cite name: **USFWS NWI of MN, 1974-1978**
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): **Trunk Highway 68 Improvements (S.P. 4210-49) Wetland Delineation, January 25, 2019**
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: N/A