

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 3, 2022

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2021-01413-DDP (SAP 056-635-038)
(Otter Tail, County of / SAP 056-635-038 / CSAH 35)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: MN County/parish/borough: Otter Tail City: Sverdrup Township
Center coordinates of site (lat/long in degree decimal format): Lat. 46.308195° N, Long. -95.86778° E.
Universal Transverse Mercator:

Name of nearest waterbody: Otter Tail River

Name of watershed or Hydrologic Unit Code (HUC): (09020103) Souris-Red-Rainy Region

- ☒ 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: December 20, 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 SAP 056-635-038 / CSAH 35 review area contains 4 aquatic features for review Wetland 1 (0.11ac), Wetland 4 (23.65ac), Wetland 6 (5.94ac) and Wetland 7 (0.76ac) The majority of the review area consists of urban and agricultural land use. Based on analysis of multiple years of aerial photography, web soil survey data, USGS topographic mapping, NWI mapping and the August 27th, 2019 Otter Tail County CSAH 26 Delineation Report, the Corps has determined that the aforementioned are not jurisdictional.**

Wetland 1 is best described as an isolated concave depression in a farm field. This feature is not inundated by flooding from another water of the U.S. in a typical year, nor is it separated from another water of the U.S. by a man-made dike, barrier, or berm. It is bordered by active agriculture and roadbed on all sides.

Wetland 7 is best described as an isolated concave depression in a farm field. This feature is not inundated by flooding from another water of the U.S. in a typical year, nor is it separated from another water of the U.S. by a man-made dike, barrier, or berm. It is bordered by active agriculture on all sides.

Wetland 6 is best described as an isolated concave depression in a farm field. This feature is not inundated by flooding from another water of the U.S. in a typical year, nor is it separated from another water of the U.S. by a man-made dike, barrier, or berm. It is bordered by active agriculture and roadbed on all sides. It borders upland forest on the southeast side.

¹ Supporting documentation is presented in Section III.F.

Wetland 4 is best described as a Lake/pond that is surrounded entirely by active agriculture on all sides. Investigations show that there is no outfall, whether by jurisdictional or non-jurisdictional feature, to establish a connection to another water of the U.S. The next nearest water of the U.S. is greater than 1,000' to the northeast and there is no flow path, nor is the feature inundated by flooding from the water of the U.S. There are no public access sites on this waterbody suitable for launching and retrieving watercraft.

Based on this information Wetlands 1,4,6 and 7 are isolated with no surface or shallow subsurface hydrologic connection or ecological connection to the nearest RPW or TNW. These waters do not border, neighbor, nor are contiguous with another water of the U.S. These waters are not separated from other WOUS by man-made dikes, barriers, or berms. These waters do not support a link to interstate or foreign commerce; They are not known to be used by interstate or foreign travelers for recreation or other purposes; They 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. Therefore, the Corps has determined that these waters are not regulated by the Corps under Section 404 of the Clean Water Act.

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):

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: Wetland 4 (23.65ac) listed by consultant as wetland but it is a pond acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☒ Wetlands: Wetland 1 (0.11ac), Wetland 6 (5.94ac) and Wetland 7 (0.76ac)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: August 27th 2019 Oter Tail County CSAH 26 Delineation Report
 - ☒ 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: 1:24K Quad Name: Underwood
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Otter Tail County Soil Survey
- ☒ National wetlands inventory map(s). Cite name: CorpMaps layer viewed December 20, 2021
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): Aerial and other provided by the applicant and Google Earth 1991, 2003, 2004, 2006, 2008, 2009, 2011, 2013, 2015, and 2016.
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: