

**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 17, 2021

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** MVP-2021-01638-SSC, Project Ollie

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

State: Minnesota County/parish/borough: Wright City: Otsego

Center coordinates of site (lat/long in degree decimal format): Lat. 45.243361° N, Long. -93.545559° W.

Universal Transverse Mercator: Zone 15

Name of nearest waterbody: Crow River

Name of watershed or Hydrologic Unit Code (HUC): Upper Mississippi Region HUC: 07010203

☒ 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: October 18, 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 contains several aquatic resources. This AJD is limited to the boundaries of Wetlands 1, 2, 3, 5, 7, 8, and 9 and the ephemeral tributary between Wetlands 1 and 2. Based on a review of aerial photography, topographic survey maps, and the wetland delineation report submitted by the requestor, we have determined that these features are isolated wetland depressions with boundaries that transition to uplands and do not have a connection to a Traditionally Navigable Water (TNW).**

**Wetlands 1 and 2 are located in the northwest area of the project site and are connected by an ephemeral tributary feature (145 LF). These wetlands are surrounded by upland as shown on the topographic survey information submitted by the agent. Wetland 1 does have a culvert connection to the north (under 65th Street NE) and to the west (under Queens Ave NE). The culvert to the north connects into a stormpond feature that was constructed between 2006 and 2008. SoilWeb Survey denotes this area as a non-hydric soil (Angus loam, 2 to 6 percent slopes) and MnTopo 2-foot LiDAR contours show that the stormpond is surrounded by upland. The culvert connection to the west is to a wetland and stormwater pond complex. Review of historic aerial imagery (MHAPO - 1938) displays the wetland basin as a natural feature. The stormwater pond was constructed in 2014 (non-hydric soils, Angus loam, 2 to 6 percent). This complex likely is connected to a stormwater pond to the south that is also surrounded by upland. The wetland and stormwater complex is surrounded by upland and does not appear to have any surface water connection to a TNW.**

**Wetlands 3, 5, 7, and 9 are surrounded by upland as reviewed on the topographic survey map submitted by the agent. The National Hydrography Dataset (NHD) and aerial imagery do not show any surface water connection to a TNW. No inlets or outlets are visible via desktop review and were not noted during the wetland delineation.**

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

Wetland 8 is a seasonally flooded basin located in the eastern central portion of the project site. The topographic survey shows the wetland is largely surrounded by upland. The southern portion of the wetland levels off near the ephemeral stream to the south. The agent provided comments that the wetland is separated by approximately 30 to 40 feet of upland row crop (corn) and forest. Additional photos from the agent were also submitted that support an upland separation between Wetland 8 and ephemeral tributary. Review of aerial imagery does not appear to show any surface water connection to that tributary.

The wetlands outlined above do not support links to interstate or foreign commerce; 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. These wetlands do not have an ecological connection to a water of the U.S. (WoUS). Furthermore, the areas are hydrologically isolated with no surface water connections to a WoUS. Therefore, the Corps has determined Wetlands 1, 2, 3, 5, 7, 8, and 9 and the ephemeral tributary between Wetlands 1 and 2 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): **Ephemeral Tributary 1:145** linear feet      width (ft).
- ☐ Lakes/ponds:      acres.
- ☐ Other non-wetland waters:      acres. List type of aquatic resource:      .
- ☒ Wetlands: Wetland 1: 0.27 acre, Wetland 2: 0.73 acre, Wetland 3: 0.12 acre, Wetland 5: 0.33 acre, Wetland 7: 0.26 acre, Wetland 8: 1.27 acre, Wetland 9: 0.13 acre; Total Wetland Area = 3.11 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: **Project Ollie Wetland Investigation report dated August 6, 2021; Parcel survey submitted on 10/22/2021**
- ☒ 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:
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **SoilWeb Survey**
- ☐ National wetlands inventory map(s). Cite name:
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): **MHAPO - 1938, Delineation Report - 2020, 2019, 2018, 2017, 2016, 2015, 2013, 2010, 2009, 2008, 2006, 2003; Site photos submitted by agent on 10/26/2021**
- 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:**