

**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):** December 16, 2021

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** MVP-2021-01653-SSC, 15901 85th Street NE

**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. 45.273457° N, Long. -93.560958° W.

Universal Transverse Mercator: Zone 15

Name of nearest waterbody: Mississippi 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: November 23, 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: **This AJD is limited to the boundaries of Stormpond 1 and Wetland 1. Based on a review of aerial photography, SoilWeb Survey, and the wetland delineation report and memorandum submitted by the requestor, we have determined that these features are a stormwater pond constructed in upland and an isolated wetland depression with boundaries that transition into uplands.**

**Stormpond 1 is mapped in Elkriver-Mosford complex, 0 to 6 percent slopes, a moderately well/somewhat excessively drained, non-hydric soil (SoilWeb). Review of Google Earth imagery shows that Stormpond 1 was constructed between March 2004 and August 2004. The stormpond is surrounded by upland, as shown on 2-foot LiDAR contour figures submitted in the wetland delineation report. According to the preamble to the 1986 Corps Regulations (33 CFR Parts 320-330) the Corps generally does not consider settling basins constructed in dry land to be waters of the U.S.**

**Wetland 1 is located along the northeastern edge of the site boundary. No inlets or outlets were noted by the wetland delineator during the site visit. A sample point was taken to the south of Wetland 1 where there is a slight topographic rise not captured on 2-foot LiDAR. The sample point revealed hydric soils were present but did not contain any hydrology indicators and the vegetative community was dominated by FAC to FACU vegetation. The National Wetland Inventory denotes this wetland. The National Hydrology Dataset (NHD) does not show any surface water connection to a water of the U.S. (WoUS).**

**The wetland 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 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.**

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

Furthermore, the area is hydrologically isolated with no surface water connections to a WoUS. Therefore, the Corps has determined Stormpond 1 and Wetland 1 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): **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: **Stormpond 1: 0.52 acres.**
- ☐ Other non-wetland waters:          acres. List type of aquatic resource:          .
- ☒ Wetlands: **Wetland 1: 0.24 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: **15901 85th St NE Site - Wetland Delineation Report dated August 2, 2021; Memorandum dated November 23, 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: **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: March 2014, August 2014**

- 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:**