

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): April 26, 2022

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2022-00540-MMG

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Minnesota

County/parish/borough: Stearns

City: Cold Spring

Center coordinates of site (lat/long in degree decimal format): Lat. 45.463343° N, Long. -94.380357° E. Universal

Transverse Mercator: Zone 15

Name of nearest waterbody: Sauk River

Name of watershed or Hydrologic Unit Code (HUC): 0701020206

☒ 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: April 22, 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: **In accordance with the preamble to the 1986 Corps Regulations (33 CFR Parts 320-330) and the 2008 Rapanos guidance, the Corps does not generally consider the following activities to be waters of the United States; non-tidal drainage and irrigation ditches excavated on dry land. Further clarification is provided in the December 2, 2008 Revised Guidance on Clean Water Act Jurisdiction following the Supreme Court Decision in Rapanos v. U.S. and Carabell v. U.S. issued jointly by the Corps and EPA which indicates that ditches excavated wholly in and draining only uplands and do not carry a relatively permanent flow are not waters of the United States. According to the wetland delineation report submitted by SEH on behalf of the ROCORI Trail Construction Board, four ditches were delineated within the TH 23 ROCORI Trail Phase 3 corridor that are proposed to be impacted by constructing a 10' wide multi-use trail along an abandoned railroad corridor and replacing culverts. Wetland 4, 8, 9 and 10 as shown on the attached figure are outside of mapped NWI wetlands and are described as wetlands formed within upland constructed ditches to convey runoff between the railroad and TH 23. The ditches do not convey relatively permanent flow (as seen in photos from delineation report), were constructed wholly in uplands during initial road construction, and drain only uplands (based on delineation report and LiDAR imagery). Therefore, Wetland 4 (0.01 acre), Wetland 8 (0.06 acre), Wetland 9 (0.12 acre), and Wetland 10 (0.51 acre), as shown on the attached figures are not waters of the U.S.**

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

¹ Supporting documentation is presented in Section III.F.

2