

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): May 6, 2022

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2018-02087-CEB

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Minnesota County/parish/borough: Carver City: Victoria

Center coordinates of site (lat/long in degree decimal format): Lat. 44.815177° N, Long. 93.656678° W.

Universal Transverse Mercator: 15

Name of nearest waterbody: Chaska Creek

Name of watershed or Hydrologic Unit Code (HUC): 07020012

☒ 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 1, 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: **The review area for this jurisdictional determination is the extent of Wetland Basin 8 and 9 within the review area and excludes all other waters on site. The wetlands are located within an agricultural field and do not have a surface or shallow subsurface hydrologic connection to any navigable waters or their tributaries. Based upon review of aerial photographs, USGS 1:24K Quad and its associated National Hydrography Dataset (NHD), NRCS Soil Survey, NWI maps, topography data, and materials submitted by the applicant, the wetlands are determined to be hydrologically isolated with no surface water connection to a water of the United States (WOTUS). The nearest tributary is Chaska Creek, which is 900 feet from Wetland Basin 8 and 880 feet from Wetland Basin 9. The review area is (not) within a 100-year floodplain. The wetlands within the review area are surrounded by non-jurisdictional uplands, have no swales, ditches, pipes or other means that would provide a surface of subsurface connection to a WOTUS. Wetlands 8 and 9 are both farmed depressional areas surrounded by uplands with no surface of subsurface connection. We have determined that the wetlands subject to this review are isolated and hydrologically separated from other aquatic resources. The surrounding land use is comprised of agricultural, shrubland and grassland, forest and woodland, transportation corridor and do not sufficiently provide cover or habitat between Wetland Basins 8 and 9 and other aquatic resources. The wetlands do not have an ecological connection to a WOTUS. The wetlands do not support a link to interstate or foreign commerce and are not known to be used for industrial purposes by industries in interstate or foreign commerce. The wetlands are determined to not be a WOTUS and not jurisdictional under the CWA.**

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):

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: Wetland Basin 8: 0.41 acre, Wetland Basin 9: 0.06 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: Rolling Hills South Application, applicant site visit documentation, and TEP site visit documentation
- ☐ 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: Carter County Soil Survey
- ☒ National wetlands inventory map(s). Cite name: USFWS NWI Map accessed 3/31/2022
- ☐ State/Local wetland inventory map(s):
- ☒ FEMA/FIRM maps: National Flood Hazard Layer FIRMette accessed on 3/30/2022
- ☒ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): FSA NAIP 2019 and Google Earth (3/2022, 8/2021, 10/2020, 10/2019, 5/2018, 4/2018, 4/2017, 6/2016, 3/2016, 8/2015, 10/2014, 9/2013, 9/2012, 5/2012, 4/2012, 4/2011, 5/2010, 9/2009, 9/2008, 9/2006, 3/2006, 3/2005, 12/2004, 4/2004, 9/2003, 5/2003, 4/2003, 4/1991)
 - 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): Local Government Unit Notice of Decision (LGU NOD), Minnesota
Topographical contours

B. ADDITIONAL COMMENTS TO SUPPORT JD: