

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): **SEP 20 2017**

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:
MVP-2006-03158-MLV (Crow River Heights West)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Minnesota County/parish/borough: Wright City: Hanover
Center coordinates of site (lat/long in degree decimal format): Lat. 45.16417° N, Long. -93.689269° W.
Universal Transverse Mercator: 445830.451021, 5001418.914597

Name of nearest waterbody: Crow River

Name of watershed or Hydrologic Unit Code (HUC): 0701020407 Crow River

- ☒ 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: September 6, 2017
☒ Field Determination. Date(s): July 18, 2017

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: Pond 3, Pond 5, and the stormwater overflow area on the enclosed figures labeled MVP-2006-03158-MLV Page 1 of 3 through 3 of 3 are delineated as shallow marsh/open water and wet meadow wetland communities, respectively, in the August 2017 Crow River Heights Delineation Report Addendum. Pond 3 and Pond 5 are present on the National Wetland Inventory as Palustrine Unconsolidated Bottom (PUB) wetlands. MVP-2006-03158-MLV Page 3 of 3 depicts the planned designs for Ponds 3 and 5 on development plans as constructed stormwater basins. The design included a stormwater overflow area in the same location as the stormwater overflow area identified in the delineation report. A review of available aerial photography indicates no wetland signatures in the vicinity of either stormwater basin until their construction in 2008. This and the lack of historic hydrology indicators within the location of the basin indicate that the wetland properties present today are a result of the construction of the storm water basins and that Pond 3, 5 and and the stormwater overflow were originally constructed in uplands to act as settling basins for the planned residential development. The non-jurisdictional determination for this basin was completed in accordance with the preamble to the 1986 Corps Regulations (33 CFR Parts 320-330), which states that the Corps generally does not consider certain waterbodies to be WoUS, including: Artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing. Therefore, Pond 3, Pond 5 and the stormwater overflow area are not waters of the U.S. and are not jurisdictional under the CWA.

¹ Supporting documentation is presented in Section III.F.

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): **Pond 3 and the stormwater overflow area (1.51 acres) and Pond 5 (0.5 acre) are settling basins constructed in upland.**

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: 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: **Kjolhaug Environmental Services**
- ☒ 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 MN-SAINT MICHAEL**
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Wright County Soil Survey**
- ☒ National wetlands inventory map(s). Cite name: **USFWS 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 1991-2017**
or ☒ Other (Name & Date): **KES Drone Photo 2017**
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): **Wright County LiDAR data**

B. ADDITIONAL COMMENTS TO SUPPORT JD:

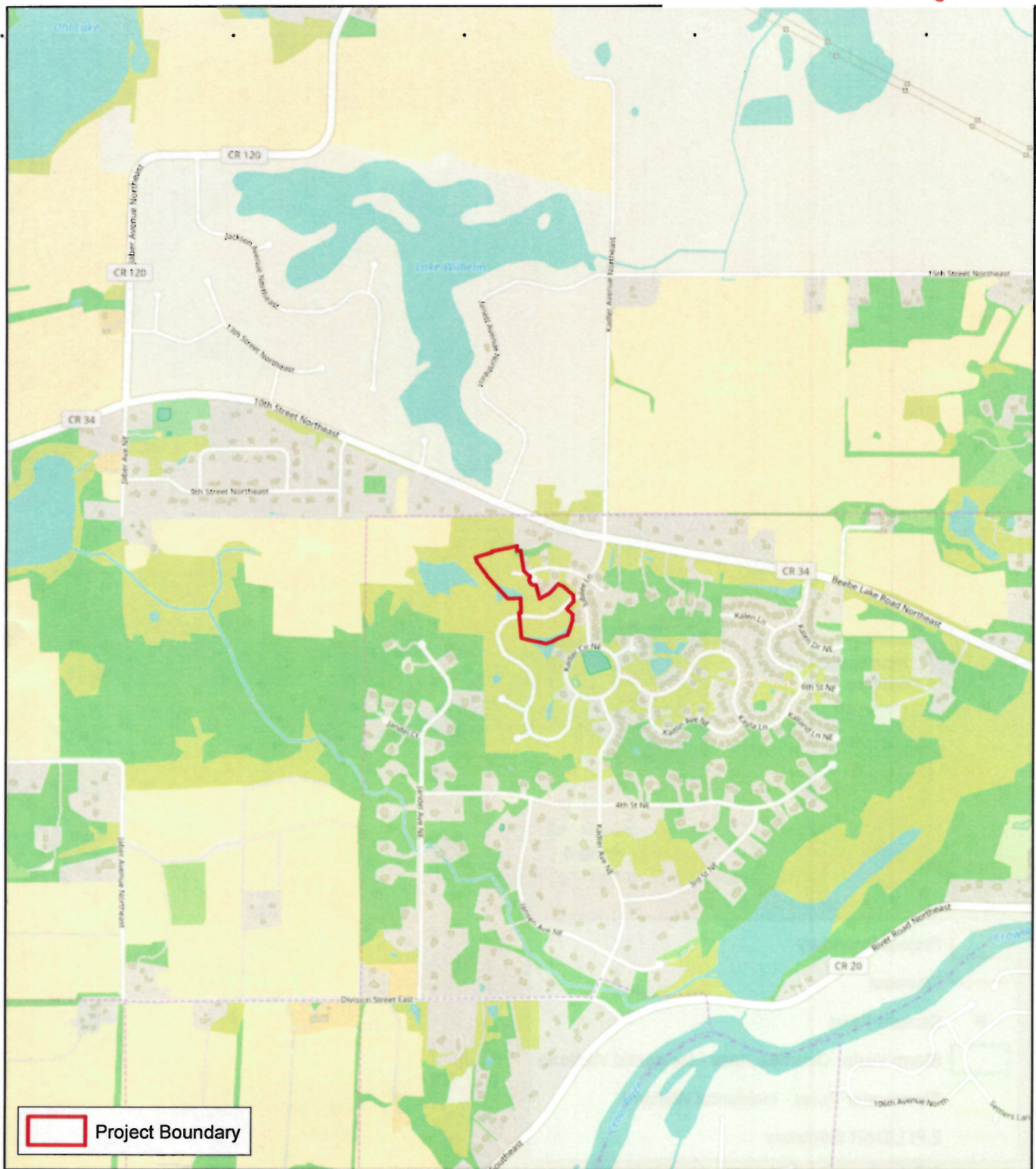


Figure 1 - Site Location



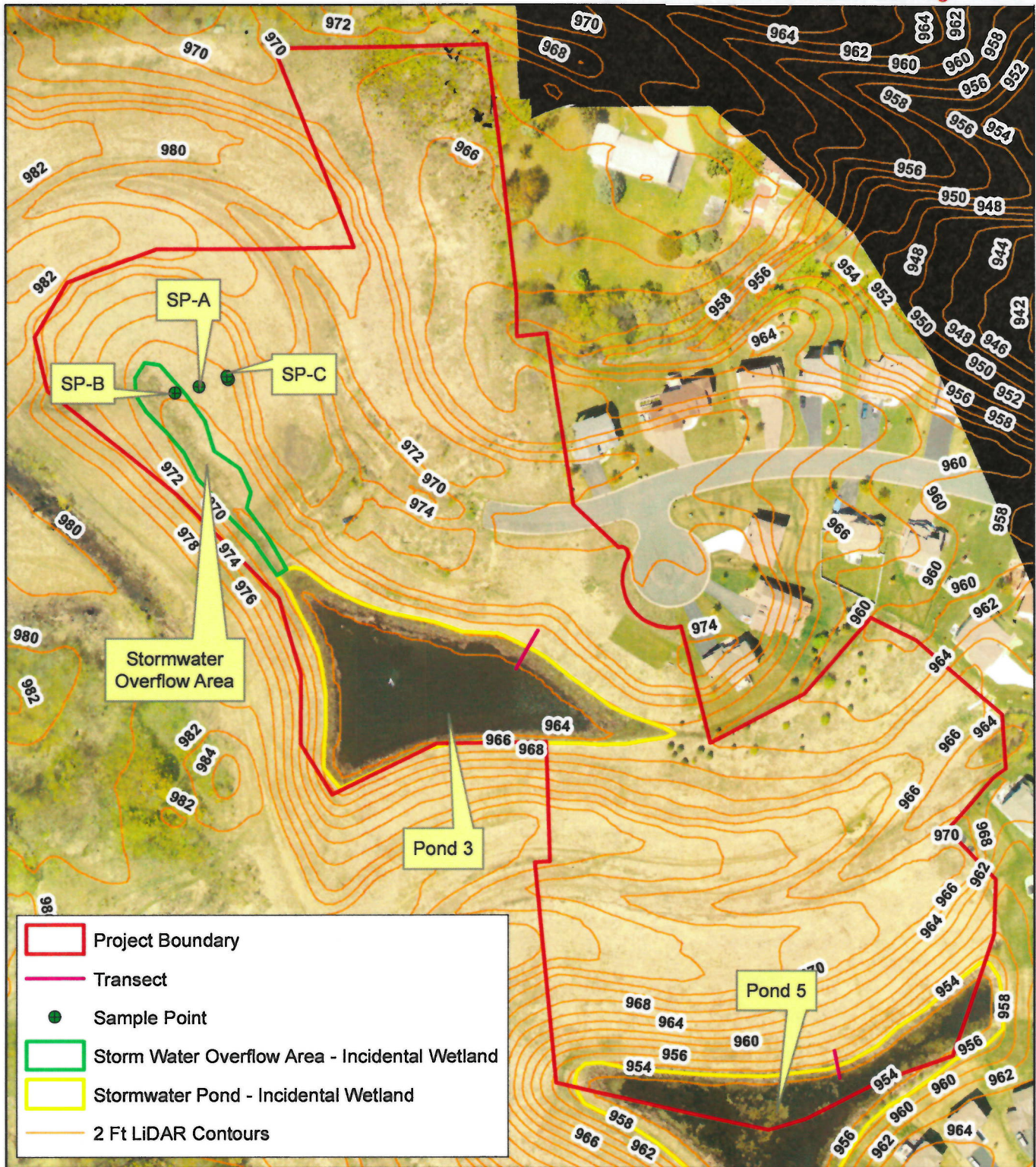


Figure 2 - Existing Conditions (2017 KES Drone Photo)



N



0 175 Feet



Crow River Heights West (KES 2017-052)
Hanover, Minnesota

Note: Boundaries indicated on this figure are approximate and do not constitute an official survey product.

KJOLHAUG ENVIRONMENTAL SERVICES COMPANY

Source: MnGeo, ESRI Imagery Basemap