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): JUL 20 2016


C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: Minnesota
   County/parish/borough: Sherburne County
   City: Elk River
   Center coordinates of site (lat/long in degree decimal format): Lat. 45.2200° N, Long. -93.3348° W.
   Universal Transverse Mercator:
   Name of nearest waterbody: Unnamed Tributary to Trott Brook
   Name of watershed or Hydrologic Unit Code (HUC): 07010207
   ☒ 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: 01 June 2016
   ☐ 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: There is one wetland in the review area labeled as Wetland 1 on the enclosed figure labeled MVP-2015-03305-MLV Page 2 of 2. Wetland 1 is located between Minnesota State Highway 169 to the west, 217th Avenue to the south, and an upland graded aggregate surface and an equipment building to the east. The area north of the wetland consists of another mined parcel that appears to contain a continuation of the Wetland 1 basin as well as multiple smaller wetland basins. The nearest Traditionally Navigable Water (TNW) is the Mississippi River approximately 24,000 linear feet south of Wetland 1. The wetland is surrounded by commercial and industrial development, and has no swales, pipes or other means to connect it to waters of the U.S. The considerable distance between Wetland 1 and the TNW precludes a shallow subsurface connection. The area between Wetland 1 and the TNW is heavily developed and lacks any natural corridor that could support an ecological connection. The wetland does not support a link to interstate or foreign commerce because it 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 or foreign commerce. We have determined that Wetland 1 is an isolated depression and not a water of the U.S.; therefore the wetland is 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

C. SIGNIFICANT NEXUS DETERMINATION: N/A

¹ Supporting documentation is presented in Section III.F.
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: 1.02 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.

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**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: maps provided by Kjolhaug

**Environmental on behalf of the applicant**

- ☒ 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 NH3 data.
- ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: 1:24K MN-ELK RIVER
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation:
- ☒ National wetlands inventory map(s). Cite name: USFWS NWI & MnDNR NWI
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/IFRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): 2013 FSA Photograph
- ☐ 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): Sherburne County LiDAR data

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**
Project Location Map

Sources: Esri, HERE, DeLorme, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), MapmyIndia, © OpenStreetMap contributors, and the GIS User Community
Figure 2 - Existing Conditions (2013 FSA Photograph)

Envision Aggregate (KES 2015-102)
Elk River, Minnesota

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