SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): June 15, 2016


C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Minnesota
County/parish/borough: Rice County
City: Faribault

Center coordinates of site (lat/long in degree decimal format): Lat. 44.33024° N, Long. -93.28660° W.

Universal Transverse Mercator: Zone 15, X: 477149, Y: 4908593

Name of nearest waterbody: unnamed wetland
Name of watershed or Hydrologic Unit Code (HUC): 007040002

☐ 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: 27 April 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: This approved jurisdictional determination (AJD) is only applicable for the area within the boundaries of the waterbodies that are identified as stormwater ponds within the project area and thus excludes the remainder of the project area. All other areas within the project area, including wetlands A, B, C, D, E, F, and G are covered with a preliminary jurisdictional determination (PJD). The three stormwater retention ponds within the review area total approximately 2 acres in size. Construction began between 2003 and 2009. The area within the stormwater ponds are classified as Hayden loam (not hydric) and Cordova clay loam (hydric) by NRCS. The USGS Topographic Quadrangles do not show wetlands within the identified stormwater ponds, however there are wetlands identified near the ponds in the project area, so aerial imagery was used to determine more site-specific information regarding any previous potential wetlands. Due to grading that occurred beginning in 2004 on the site, with the initial construction of the stormwater ponds, aerial imagery prior to 2004 was used to determine the presence of wet signatures within the area addressed in this AJD. Aerial imagery in 2003 (source: Farm Service Agency), 1991 (source: United States Geological Society), and 1951 (source: Minnesota Department of Natural Resources) were used for an aerial review. None of the aerial images listed had wet signatures in any of the locations of the three stormwater ponds within this review indicating the absence of a waterbody, such as a wetland or tributary, within the review area prior to 2004. Therefore, the ponds were created in dry land. In addition, the as-built plans for the construction of the ponds show that they were being built for the purpose of retaining water, and as a settling basin for stormwater. The preamble of the 1986 Regulations of 33 CFR Parts 320 through 330 states, with respect to the interpretation of the definition of waters of the U.S. given by 33 CFR 328.3, that ponds that were created in dry land to retain water and used for purposes such as for a settling basin are generally not intended to be considered waters of the U.S. The stormwater ponds were created in upland to store run-off water. They are not considered waters of the U.S., and are

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: See Section II. B. 2.
   - 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: 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: See application
   - 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: NRCS Hayden loam and Cordova silt loam
   - National wetlands inventory map(s). Cite name:
   - State/Local wetland inventory map(s):
   - FEMA/FIRM maps:
     - 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
   - Photographs: Aerial (Name & Date): 2003 (source: Farm Service Agency), 1991 (source: United States Geological Society), and 1951 (source: Minnesota Department of Natural Resources) 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:
FIGURE 2
Wetland Delineation Map
Faribault Foods Relocation and Expansion
3200 Industrial Drive, Faribault, Minnesota

Legend
- Delineated Wetlands
- Stormwater Ponds
- NWI
- DNR Public Waters
- USGS Stream
- Project Boundary

Scale: 1 inch = 400 feet

DATE: 2/24/2016
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