

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): **MAR 08 2018**

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2017-03364-MVM Highland Ridge Sixth Addition (McKinley Site)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Minnesota County/parish/borough: Wright City: Delano

Center coordinates of site (lat/long in degree decimal format): Lat. 45.03916° N, Long. -93.81153° W.

Universal Transverse Mercator: 15

Name of nearest waterbody: South Fork Crow River

Name of watershed or Hydrologic Unit Code (HUC): 0701020507 South Fork 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: January 25, 2018

☒ Field Determination. Date(s): November 15, 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: This jurisdictional determination is only applicable to Wetland 2, Wetland 3, and Wetland 4 on the enclosed figure labeled MVP-2017-03364-MVM Page 2 of 2. A site visit was conducted on November 15, 2017. During the site visit, we confirmed that Wetland 2 outlets southwest through a drainage swale, then flows north along a road ditch adjacent to McKinley Parkway. Surface water then travels west through a culvert located in the northwest corner of the review area under McKinley Parkway and dissipates in an agricultural field on the west side of the road. The site visit also confirmed that Wetland 3 and Wetland 4 are closed depressions with no outlets. Wetland 2 was found to have an outlet but has no surface hydrologic connection to waters of the U.S. Wetlands 3 and 4 have no hydrologic outlet or any pipes, swales or other means to connect them to waters of the U.S. The wetlands are approximately 1 mile west of the nearest TNW, the South Fork of the Crow River. The area between the wetlands and the South Fork of the Crow River contains multiple paved roadways and is heavily developed. Therefore, no natural corridor is present that could support an ecological connection. The distance between Wetlands 2, 3, and 4 and the nearest TNW precludes a shallow subsurface connection. The wetlands do not support a link to interstate or foreign commerce because they are not known to be used by interstate or foreign travelers for recreation or other purposes; do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and are not known to be used for industrial purposes by industries in interstate or foreign commerce. We have determined that Wetland 2, Wetland 3, and Wetland 4 are isolated and are not waters of the U.S.; therefore the wetlands 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): **This jurisdictional determination is also applicable to Swale 1 on the enclosed figure labeled MVP-2017-03364-MVM Page 2 of 2. Swale 1 does not meet wetland criteria as supported by the delineation report prepared by Kjolhaug Environmental, dated September 25, 2017. A site visit confirmed that Swale 1 does not possess an Ordinary High Water Mark, and does not connect to any tributaries or other waters of the U.S. Therefore, Swale 1 does not meet the definition of a water of a U.S., and is not jurisdictional under the CWA.**

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 2 (0.29 acre), Wetland 3 (0.41 acre), Wetland 4 (0.28 acre) 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-DELANO
- ☐ 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 May 2017
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): **Wright County Lidar**

B. ADDITIONAL COMMENTS TO SUPPORT JD:

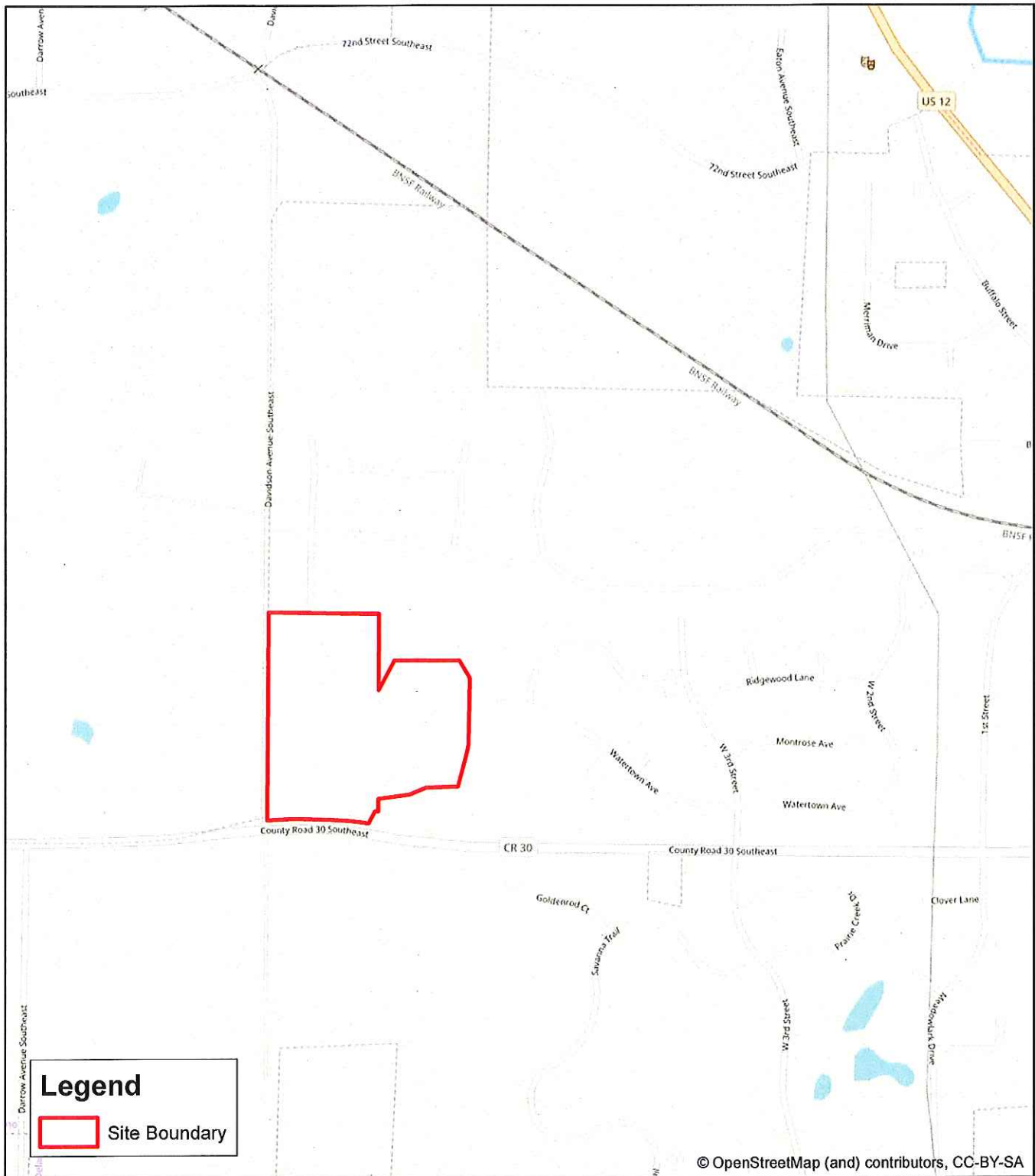


Figure 1 - Site Location



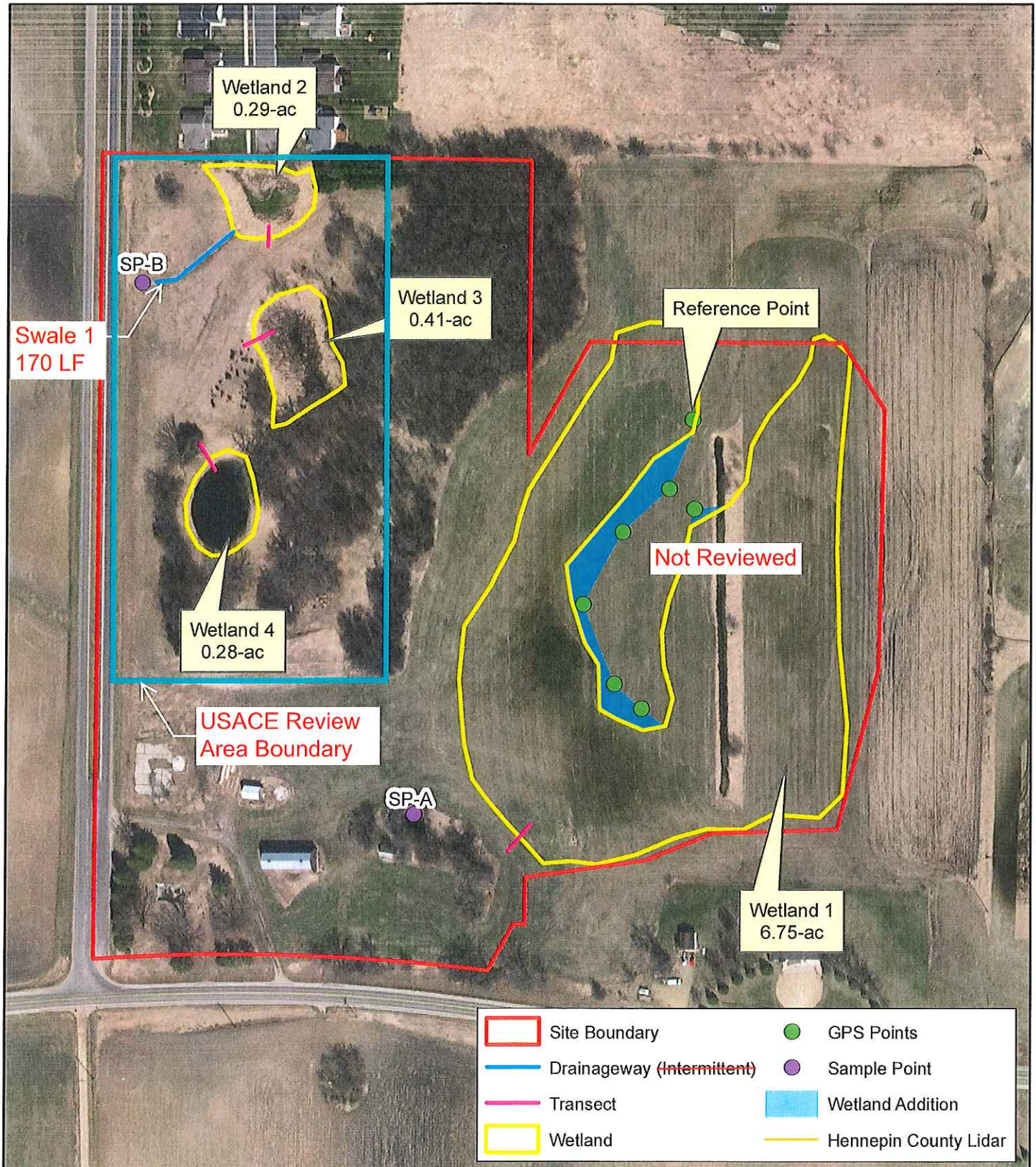


Figure 2 - Existing Conditions



KJOLHAUG ENVIRONMENTAL SERVICES COMPANY
Source: MnGeo, ESRI Imagery Basemap

McKinley Site (KES 2017-136)
Delano, Minnesota

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