



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT
332 MINNESOTA STREET, SUITE E1500
ST. PAUL, MN 55101-1323

MVP-2018-00694-MMP

February 6, 2026

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023),¹ 2018-00694-MMP. MFR 1 of 1.

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.² AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.³

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),⁴ the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

1. SUMMARY OF CONCLUSIONS.

¹ While the Revised Definition of "Waters of the United States"; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

MVP

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVP-2018-00694-MMP

- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).

1. Wetland 1, (0.02 acre). Non-jurisdictional. Does not meet (a)(4).
2. Wetland 2, (0.06 acre). Non-jurisdictional. Does not meet (a)(4).
3. Wetland 3, (0.03 acre). Non-jurisdictional. Does not meet (a)(4).
4. Wetland 4, (0.1 acre). Non-jurisdictional. Does not meet (a)(4).
5. Wetland 5, (0.04 acre). Non-jurisdictional. Does not meet (a)(4).

2. REFERENCES.

- a. "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule")
- b. "Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 (September 8, 2023)
- c. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)
- d. Memorandum To The Field Between The U.S. Department Of The Army, U.S. Army Corps Of Engineers And The U.S. Environmental Protection Agency Concerning The Proper Implementation Of 'Continuous Surface Connection' Under The Definition Of "Waters Of The United States" Under The Clean Water Act" (March 12, 2025).

3. REVIEW AREA. The review area for this determination includes 5 non-jurisdictional wetlands, as identified in Section 1.a of this MFR and on the enclosed figures labeled MVP-2018-00964-MMP, Figures 1 of 2 through 2 of 2. The review area is within Sections 12 and 13, Township 146 North, Range 34 West and in Sections 7 and 18, Township 146 North, Range 22 West at Latitude: 47.4686 and Longitude: -94.9274, in Beltrami County, Minnesota
4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. N/A
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. N/A

MVP

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVP-2018-00694-MMP

6. SECTION 10 JURISDICTIONAL WATERS⁵: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁶ N/A

7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
 - a. Traditional Navigable Waters (TNWs) (a)(1)(i): N/A
 - b. The Territorial Seas (a)(1)(ii): N/A
 - c. Interstate Waters (a)(1)(iii): N/A
 - d. Impoundments (a)(2): N/A
 - e. Tributaries (a)(3): N/A
 - f. Adjacent Wetlands (a)(4): N/A
 - g. Additional Waters (a)(5): N/A

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

⁵ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

⁶ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

MVP

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVP-2018-00694-MMP

- a. Describe aquatic resources and other features within the review area identified in the 2023 Rule as amended as not “waters of the United States” even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).⁷ N/A
- b. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

Wetlands 1-5, are not traditionally navigable waters (TNW), a territorial sea, or interstate water and therefore are not an (a)(1) waters.

Based on the wetland delineation report and desktop resources, including LiDAR data, contour maps, recent aerial photos, and the National Wetland Inventory (NWI), Wetlands 1-5 are depressional basins surrounded by uplands.

Wetland 1 is located in the southwest quadrant of the County Road (CR) 7 and CR 11 intersection, and Wetland 2 in the southeast quadrant. Minnesota Department of Transportation’s Culvert Inventory identifies a culvert under Adams Avenue Southwest (CR 11). Both wetlands continue offsite to the south. In a review of the National Wetland Inventory (NWI) contour maps and aerial photos, a transition to upland occurs approximately 850 feet south of Wetland 1 and approximately 500 feet south of Wetland 2. At this point, there is a rise in elevation of approximately 2 feet surrounding Wetland 1 and a rise of approximately 5 feet surrounding Wetland 2. Aerial photos identify a vegetation shift of both wetlands at this location.

Wetland 3 is located in the northeastern quadrant of the intersection and continues north beyond the review area. No culverts are identified within Wetland 3. In a review of the NWI, aerial photos, and contour maps, a transition to upland occurs approximately 390 feet north. At this point, there is a rise in elevation approximately 3 feet surrounding the wetland. Aerial photos identify a vegetation shift at this location.

⁷ 88 FR 3004 (January 18, 2023)

MVP

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVP-2018-00694-MMP

Wetlands 4 and 5 are located in the northwest quadrant of the intersection and continue to the north. Within the review area, no culverts are identified within these wetlands. However, Lidar data indicates there may be a culvert to the north connecting these features. In a review of aerial photos, Lidar data, and contour maps, there is a transition to upland approximately 650 feet north of these wetlands, at which point there is a rise in elevation approximately 10 feet.

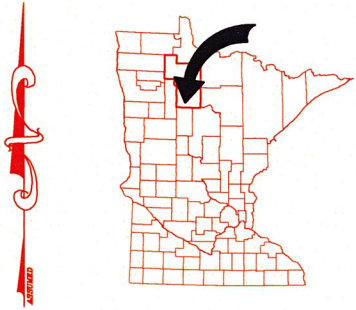
Based on this evaluation, Wetlands 1-5 are surrounded entirely by uplands and do not physically abut a relatively permanent paragraph (a)(2) impoundment or jurisdictional (a)(3) tributary. Wetlands 1-5 are located approximately 0.67 miles from the nearest requisite jurisdictional water, the Mississippi River, located south of the review area.

Based on this evaluation, Wetlands 1-5, are non-tidal wetlands that do not abut a relatively permanent jurisdictional water and, as such, do not meet the definition of adjacent and cannot be evaluated as (a)(4) adjacent wetlands; therefore, these wetlands are not jurisdictional under the 2023 Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 Final Rule.

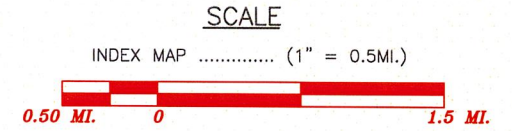
9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.
 - a. Wetland Delineation Report completed by IMEG with a field visit in September of 2025.
 - b. 3DEP 2-ft, 5-ft, 10-ft, and 25-ft Contour maps and MNDNR Hillshade - 2016 accessed on the National Regulatory Viewer.

10. OTHER SUPPORTING INFORMATION. N/A

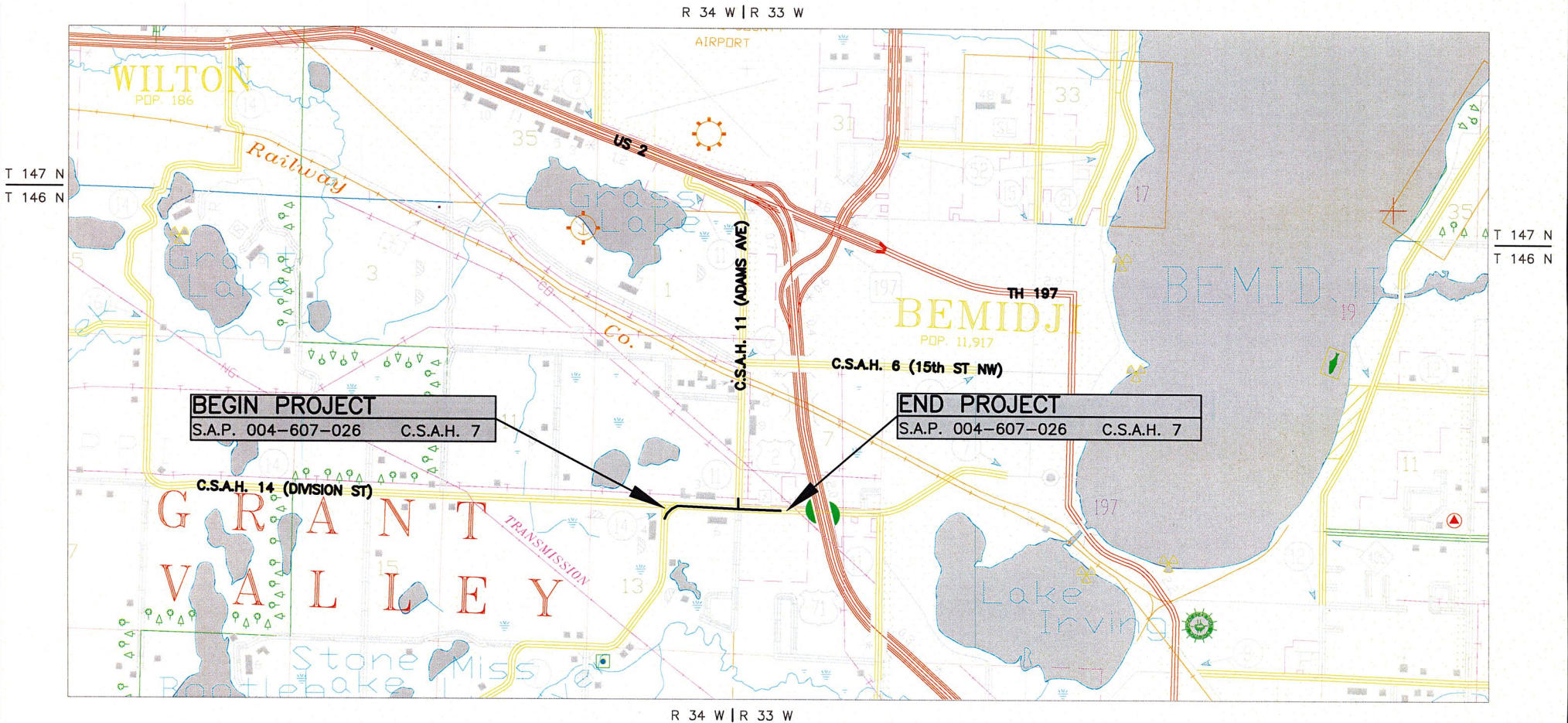
11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.



SAP 004-607-026 PART OF BELTRAMI COUNTY LOCATION MAP



MVP-2018-00694-MMP Figure 1 of 2



BELTRAMI COUNTY CSAH 7 WETLAND MAP



AJD Review
Area



AREA OF INTEREST

WETLAND 5

WETLAND 4

WETLAND 3

WETLAND 6

WETLAND 7

WETLAND 1

WETLAND 2

MVP-2018-00694-MMP Figure 2 of 2



WETLAND TRANSECT