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

MVP

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] MVP-2026-00470 [MFR1][2]

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.[3] 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.[4]

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),[5] the 2023 Rule as amended,

[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] When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, the territorial seas, or interstate water that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).
[3] 33 CFR 331.2.
[4] Regulatory Guidance Letter 05-02.
[5] 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.

as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

1. SUMMARY OF CONCLUSIONS.

   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).

Name of Aquatic Resource	JD or Non-JD	Section 404/Section 10
Prior Converted Cropland - Wetland 1	Non-Jurisdictional	N/A

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)

   e. January 2023 Rule preamble at 88 FR 3090

   f. 33 CFR § 328.3(b)(2) Exclusion for Prior Converted Cropland

   g. 7 CFR § 12.2 USDA Definitions, including Prior Converted Cropland

3. REVIEW AREA. []
   a. Project Are Size (in acres): Approximately 30 acres
   b. Location Description: The project/review area is located in Section 24, Township 120N, Range 027W, Wright County, Minnesota.

c. Center Coordinates of the Project Site (in decimal degrees)
   Latitude: 45.182910 Longitude: -94.029780
d. Nearest City or Town: Maple Lake
e. County: Wright
f. State: Minnesota
g. Other associated Jurisdictional Determinations (including outcomes):
   N/A

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

6. SECTION 10 JURISDICTIONAL WATERS: 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.
   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

[6] This MFR should not be used to complete a new stand-alone TNW determination. A stand-alone TNW determination for a water that is not subject to Section 9 or 10 of the Rivers and Harbors Act of 1899 (RHA) is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established.
[7] 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.
[8] 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.

"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

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).[9]

The 4.2-acre area (identified as Wetland 1) is excluded from Clean Water Act jurisdiction as Prior Converted Cropland (PCC) per 33 CFR § 328.3(b)(2) and 7 CFR §12.2.

The administrative record reflects that the NRCS completed a Certified Wetland Determination (CWD) on December 8, 2011 (Farm 8991, Tract 1504), delineating a 4.2 acre Farmed Wetland (FW) area within the surrounding 33.2-acre PC/NW tract. The Corps reviewed documentation from the Wright County Highway Department, Technical Evaluation Panel (TEP) records, and historical aerial imagery to confirm that the 80inch drainage tile system was installed in 1981,

[9] 88 FR 3004 (January 18, 2023)

prior to the December 23, 1985 cut off date.

Historical aerial imagery (spanning 1984-2023) and site documentation confirm that the parcel has been continuously maintained for agricultural commodity production (including hay/crops) and has not been abandoned. Because the area was converted prior to December 23, 1985, and has remained in agricultural commodity production, it has not undergone a disqualifying "change in use" under 33 CFR 328.(b)(2). Therefore the area satisfies the federal definition of PCC and remains excluded from jurisdiction as a Water of the United States.

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).
N/A.

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. Joint Application Form for MJJ Farms (signed 4/17/26) received Aug 20, 2026

   b. US Geological Survey, 3DEP Bare Earth DEM Dynamic service – hillshade and 3DEP DEM, accessed on Aug 27, 2026

   c. United States Geological Survey, National Hydrography Dataset, accessed on Aug 27, 2026

   d. United States Fish and Wildlife Service, National Wetland Inventory, accessed on Aug 27, 2026

   e. Historic Aerials, NETRONLINE, 1971-2026, accessed on Aug 28, 2026

   f. Minnesota Wetland Conservation Act Technical Evaluation Panel Form (dated 2/13/26)

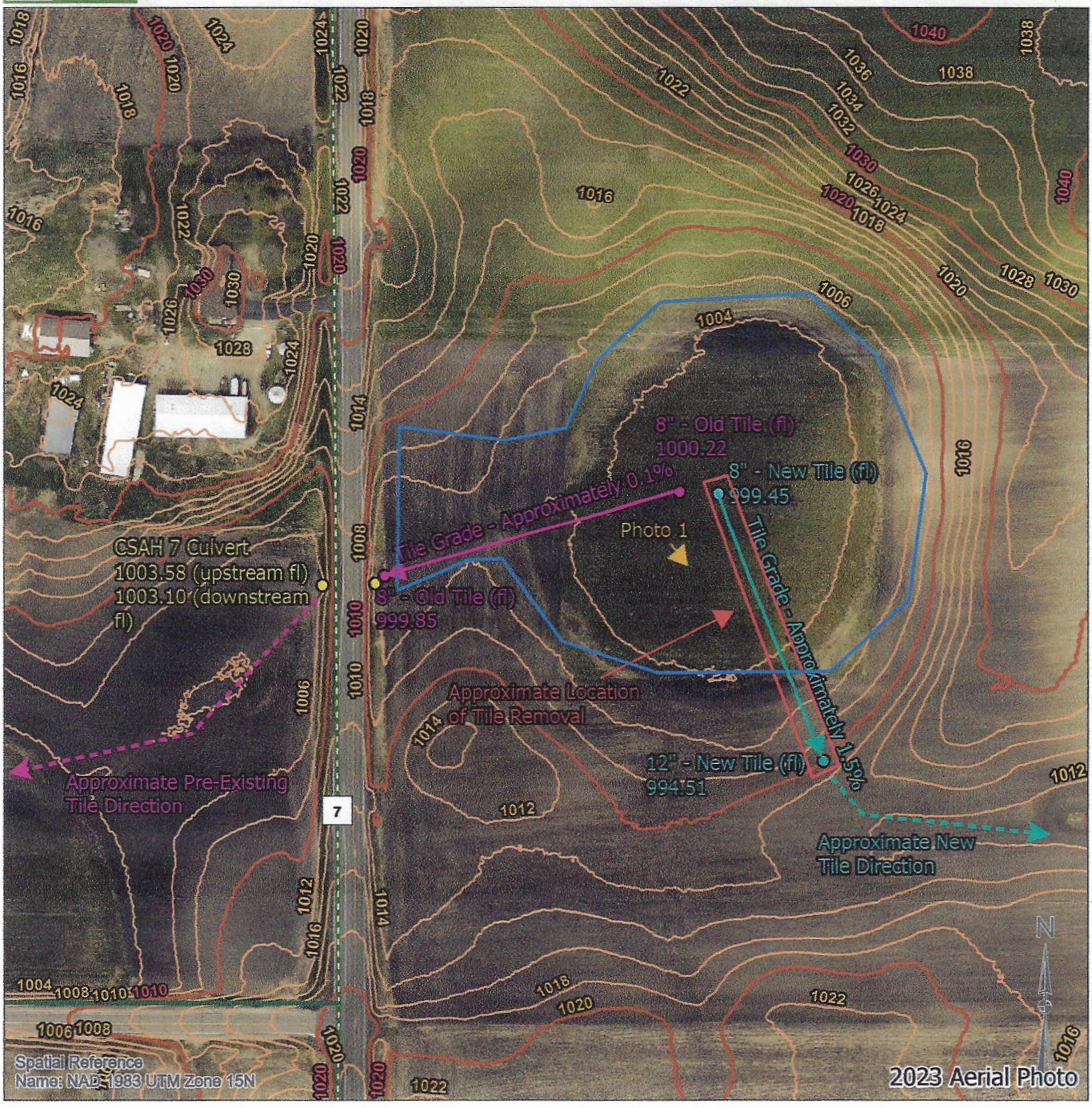
   g. Wetland Determination Data Sheet – Midwest Region (dated 11/20/2025)

10. OTHER SUPPORTING INFORMATION.

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.

Michael Sicheneder
Tile Comparison and Tile Removal Figure

Wright County
T120, R27, Sec. 24
PID 201000243401



Location of Map Center: 94°1'54"W 45°10'57"N

CWD - 4.2 ac FW
Pre-Existing Tile
New Tile

0 95 190 380 Feet

Customer Folder: S:\PUB\SWCD\Andrew GIWCA File\Townships\Albion\Section 24\MJJ Farms LLLP - PID 201000243401\