

**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):** APR 14 2017

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** MVP-2014-03698-JTB

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Minnesota County/parish/borough: Hennepin City: Maple Grove  
Center coordinates of site (lat/long in degree decimal format): Lat. 45.09286° N, Long. -93.51503° W.  
Universal Transverse Mercator: 15

Name of nearest waterbody: South Fork Rush Creek

Name of watershed or Hydrologic Unit Code (HUC): 07010206

- ☒ 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: February 8, 2017  
☐ 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):<sup>1</sup>**

- ☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  
Explain: The review area for this AJD includes five aquatic resources; however, this determination is only for wetlands 1, 2, 4 and 5 on the enclosed figures labeled MVP-2014-03698-JTB Page 1 of 3 through Page 3 of 3.

Wetland 1 is an excavated, ornamental pond that was constructed by the property's original owner in 1987. It was constructed in upland, is lined with plastic to prevent water loss and must be filled with the owner's garden hose several times a year to prevent it from drying out. This wetland does not have a surface or shallow sub-surface hydrologic connection to any navigable waters or their tributaries. The wetland is surrounded by upland, and has no swales, pipes or other means to connect it to waters of the U.S. We have determined this wetland is not considered to be a water of the U.S.

Wetland 2 is an excavated, seasonally flooded basin that is impounded by a berm on its north end. It was constructed in upland. This wetland does not have a surface or shallow sub-surface hydrologic connection to any navigable waters or their tributaries. The wetland is surrounded by upland, and has no swales, pipes or other means to connect it to waters of the U.S. We have determined this wetland is not considered to be a water of the U.S.

Wetlands 4 and 5 are farmed depressional basins and do not have a surface or shallow sub-surface hydrologic connection to any navigable waters or their tributaries. The wetlands are surrounded by upland, and have no swales, pipes or other means to connect them to waters of the U.S. We have determined these wetlands are isolated depressions and not considered to be a water of the U.S.

<sup>1</sup> Supporting documentation is presented in Section III.F.

Wetlands 1, 2, 4 and 5 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; they 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. These wetlands do not have an ecological connection to other waters within or adjacent to the review area. These waterbodies have been determined to not be 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

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: Wetland 1 - 0.08 acre, Wetland 2 - 0.01, Wetland 4 - 0.13 acre, Wetland 5 - 0.01 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.

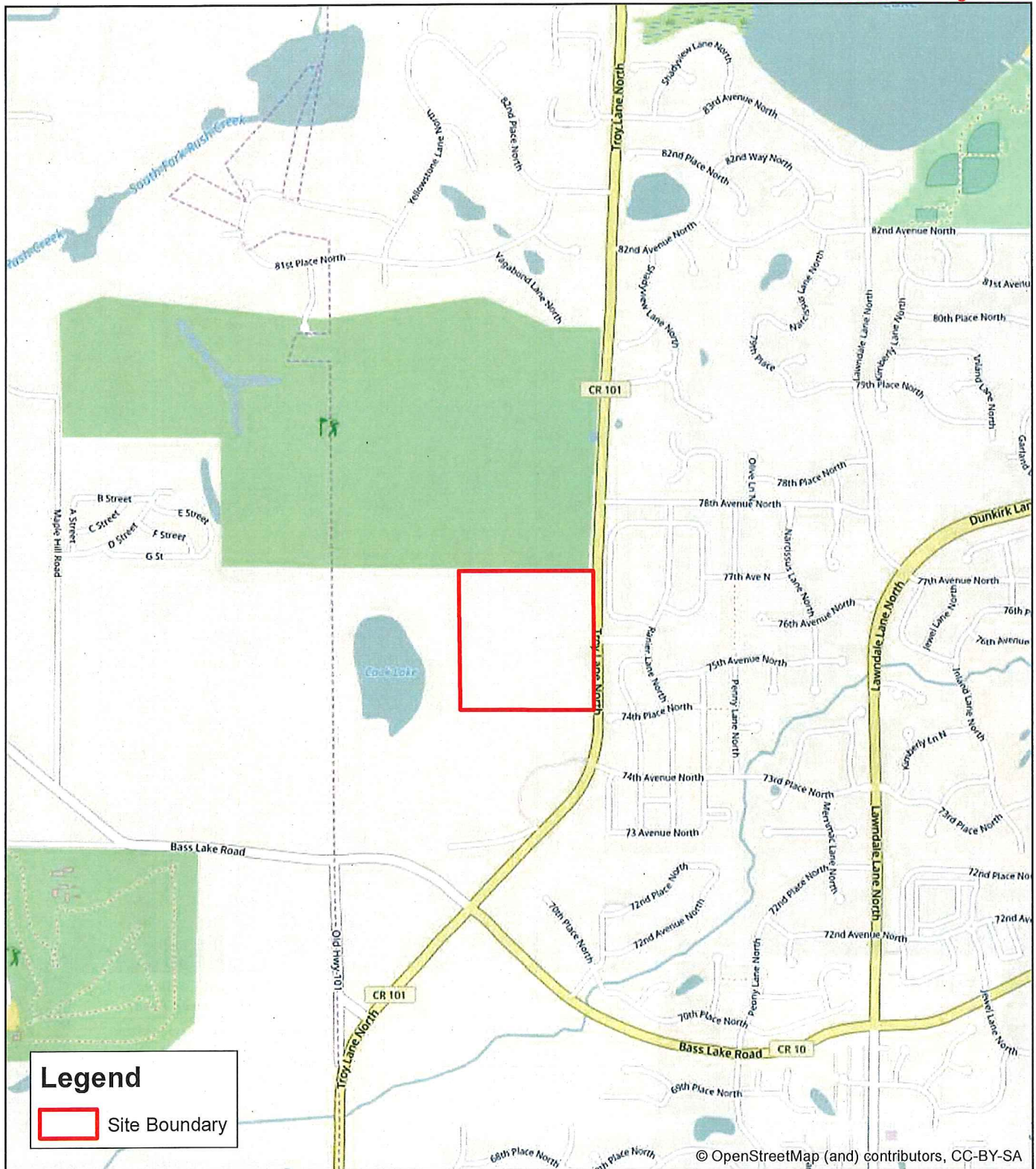
A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Location Map
- ☐ 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-HAMEL
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation:
- ☒ National wetlands inventory map(s). Cite name: USFWS NWI and MnDNR NWI
- ☐ State/Local wetland inventory map(s):

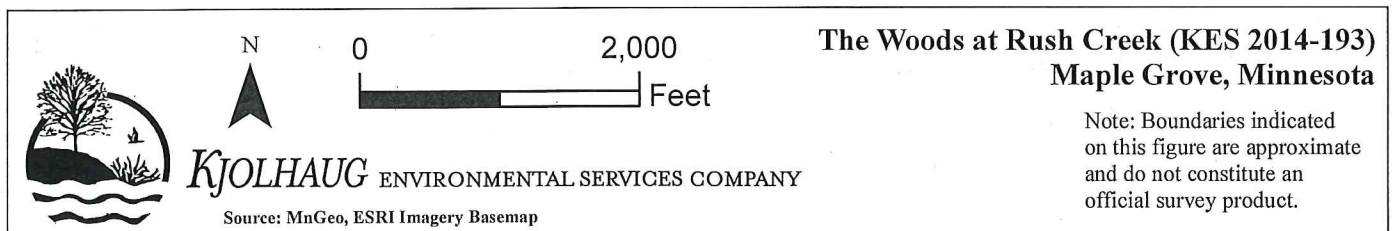
- ☐ FEMA/FIRM maps:  
☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)  
☒ Photographs: ☒ Aerial (Name & Date): FSA 2013  
or ☒ Other (Name & Date): Google Earth 03/2016  
☐ Previous determination(s). File no. and date of response letter:  
☐ Applicable/supporting case law:  
☐ Applicable/supporting scientific literature:  
☐ Other information (please specify):

**B. ADDITIONAL COMMENTS TO SUPPORT JD: .**

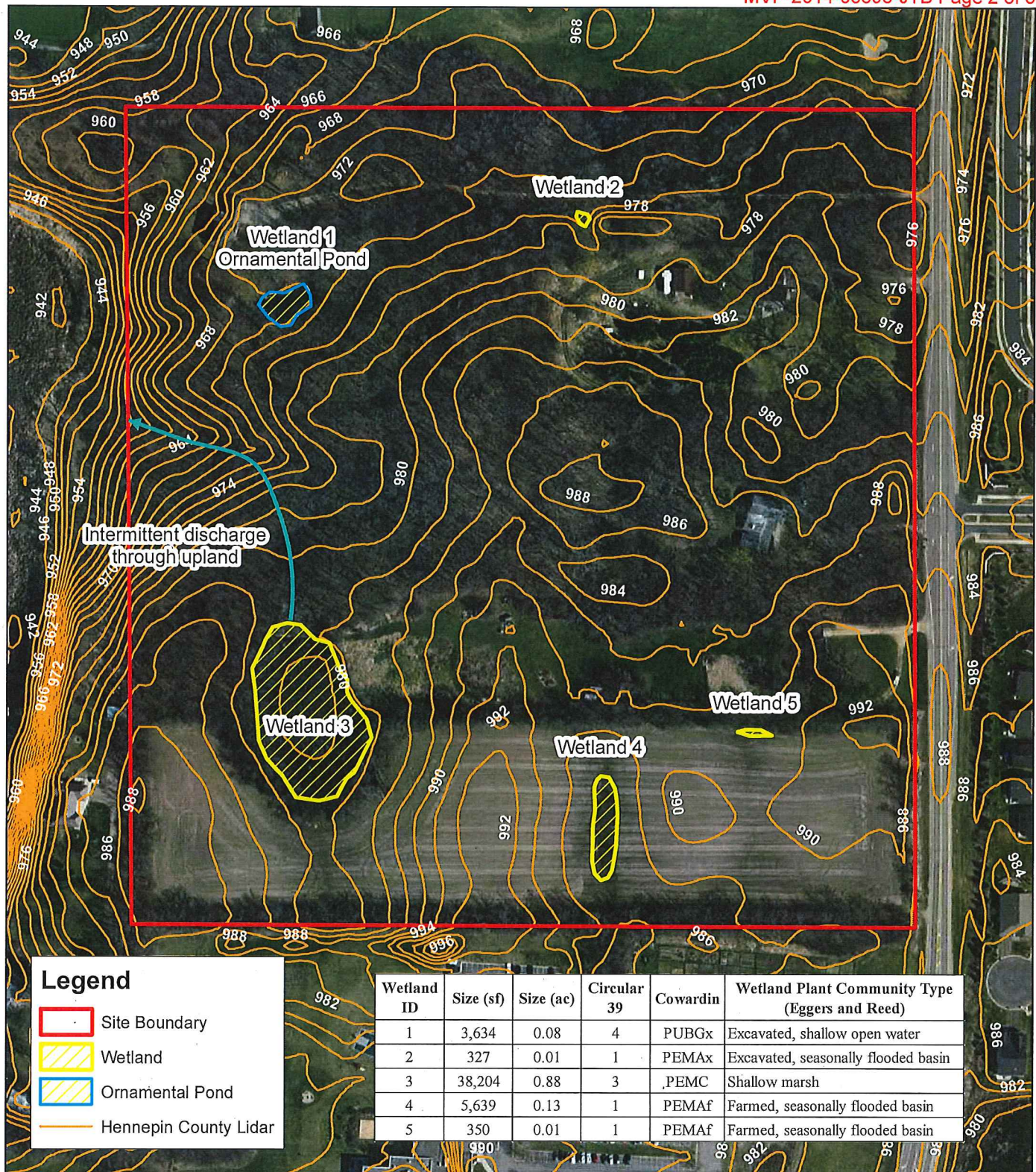




**Figure 1 - Site Location**







**Figure 2 - Delineated Wetlands (2016 Metro Photo)**



**KJOLHAUG** ENVIRONMENTAL SERVICES COMPANY



0 250  
Feet

**The Woods at Rush Creek (KES 2014-193)**  
**Maple Grove, Minnesota**

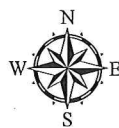
Note: Boundaries indicated on this figure are approximate and do not constitute an official survey product.





St. Paul District  
Regulatory Branch

US Army Corps  
of Engineers



Feet

0 975 1,950

2014-03698-JTB  
City of Maple Grove

Imagery: LMIC 2013 aerial