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): 3/27/2018

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:
MVP-2017-03123-TJH (Manning and Hwy 36 Delineation)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Minnesota  County/parish/borough: Washington  City: Stillwater  
Center coordinates of site (lat/long in degree decimal format): Lat. 45.033491° N, Long. -92.860792° W  
Universal Transverse Mercator:
Name of nearest waterbody: Browns Creek
Name of watershed or Hydrologic Unit Code (HUC): 07030005 Upper Mississippi Region
☐ 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: October 27, 2017
☐ Field Determination. Date(s): September 14, 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: There are 12 wetlands delineated within the project boundaries labeled WB01 through WB12, shown on the enclosed figures labeled MVP-2017-03123-TJH Pages 1 through 4. Of the 12 delineated, 10 (WB01-WB08, WB10, and WB12) have been determined to be isolated depressional basins. These determinations were made using aerial review of LiDAR data, which shows the listed wetlands to be isolated topographically, and the US Department of Agriculture Soil Survey, which shows soils to be mapped as non-hydric or predominantly non-hydric. A site visit was conducted on September 14, 2017 by the project manager and Technical Evaluation Panel which confirmed the boundaries of the wetlands. Wetlands WB01-WB08, WB10, and WB12 have no surface or subsurface hydrologic connections to any navigable waters or their tributaries. The waterbodies do not support links 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. These wetlands do not have an ecological connection to other waters within the review area. They are surrounded by upland and have no swales, pipes, or means to connect them to waters of the US. The Corps has determined that wetlands WB01, WB02, WB03, WB04, WB05, WB06, WB07, WB08, WB10, and WB12 are isolated depressions, not waters of the US, and not jurisdictional under the Clean Water Act.

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

¹ Supporting documentation is presented in Section III.F.
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: WBO1: 0.88, WB02: 0.30, WB03: 0.04, WB04: 0.17, WB05: 0.27, WB06: 0.26, WB07: 0.1, WB08: 0.2, WB10: 0.25, WB12: 0.05 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:

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: Westwood Wetland Delineation Report: Manning and Hwy 36 Delineation (August 17, 2017, revised figures September 14, 2017)
   - 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: Stillwater Township
   - USDA Natural Resources Conservation Service Soil Survey. Citation: USGS Washington County Soil Survey
   - National wetlands inventory map(s). Cite name: USFWS NWI & MnDNR NWI
   - State/Local wetland inventory map(s):
   - FEMA/FIRM maps:
     - 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
   - Photographs: Aerial (Name & Date): Google Earth 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): USDA Washington County LiDAR data

B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetlands WB09 and WB11 were partially delineated and are not included in this Jurisdictional Determination.
Exhibit 3

Soil Resources

Map Document: N:\0013062.00\GIS\HV_Wetlands_assets\HV_Wetlands_exhibit3\170815.mxd  8/17/2017  8:48:35 AM

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Manning and Hwy 36 Delineation
Stillwater Township, Minnesota

Legend

Delineation Area

Predominantly Non-hydric

Predominantly Hydric

All Hydric

Non-hydric

Data Sources:
- Westwood (2017); MnGEO WMS, U.S. Department of Agriculture, Natural Resources Conservation Service (2015)
Approximate OHW (928.10) contour from LiDAR Data

Updated from 9-15-17
TEP Review

Data Source(s): Westwood (2017); MnGEO

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