

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): **AUG 08 2017**

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2016-04100-RMM

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: MN County/parish/borough: Dakota City: Farmington

Center coordinates of site (lat/long in degree decimal format): Lat. 44.67476° N, Long. 93.14631° W.

Universal Transverse Mercator:

Name of nearest waterbody: Vermillion River

Name of watershed or Hydrologic Unit Code (HUC): 07040001

☒ 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: June 5, 2017

☒ Field Determination. Date(s): June 1, 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: **The review area encompasses approximately 400 acres. This AJD covers Wetlands 02-W2, 02-W1, 01-W1, 01-W2, and 01-W4. The following resources are the only ones subject to our isolated determination: Wetlands 02-W2, 02-W1, and 01-W1 and Wetlands 01-W2 and 01-W4 are subject to the preamble language regarding stormwater ponds constructed in uplands. The rationale for each is given below.**

The National Wetland Inventory was reviewed and the only resources that was identified was 02-W2. The other two basins were not identified. Wetland 02-W2 was not located within a large wetland complex and is located approximately 400-500 linear feet from any other aquatic resource. All three wetlands are located in a mapped hydric soil unit as shown on the Dakota County Soil Survey maps. During the site visit I confirmed that Wetland 01-W1 appears to have been the result of the road improvements. The topography in the area traps the water in the SE corner of the intersection with no outlet. The water ponds, which inundates the soil and has resulted in the presence of hydrophytic vegetation. There was no outlet and the road in that area does not have a ditch that routes the water anywhere. There is also no culvert in that area under 190th Street or Highway 3. Wetlands 02-W1 and 02-W2 were reviewed in the field and are depressional basins located in an agricultural field. The landscape in the area of those resources is very flat. The microtopography in that area results in ponding of water which results in wetland conditions in those areas. There were no outlets or tile inlets observed. Wetland 02-W1, although located adjacent to 190th Street is isolated and does not connect to any other aquatic resource. 190th Street slopes down into the agricultural field and does not have a roadside ditch. The farmer in that area farms right up next to the inslope. There was rain a few days prior to the site visit and it was evident based on the matted ring of corn stalks that the water ponds and does not flow out of the basin.

¹ Supporting documentation is presented in Section III.F.

The waterbodies described above, Wetlands 01-W1, 02-W1, and 02-W2 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 they are not known to be used for industrial purposes for interstate or foreign commerce. The waterbodies have been determined to be non-jurisdictional under the Clean Water Act because the wetlands lack connections and/or relationships sufficient to serve as a basis for jurisdiction.

Wetlands 01-W2 and 01-W4 were determined to be stormwater ponds constructed in uplands. The preamble for 33 CFR 328, published in Federal Register Volume 51, Number 219, published November 13, 1986 (page 41217), states "For clarification, it should be noted that we generally do not consider the following waters to be "Waters of the United States....(c) Artificial lakes or ponds created by excavating and / or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing." These basins were constructed in uplands and are therefore not regulated under the Section 404 of 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

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: 01-W1: 0.14 acre, 02-W1: .90 acre, 02-W2: 0.43 acre, 01-W2: 0.83 acre, and 01-W4: 0.05 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:
- ☒ 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:
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation:Dakota County Soil Survey
- ☒ National wetlands inventory map(s). Cite name: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):
 - 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):

B. ADDITIONAL COMMENTS TO SUPPORT JD:



Notes

1. Coordinate System: NAD 1983 StatePlane Minnesota South FIPS 2203 Feet
2. Data Sources Include: Startec, NADS
3. Background: World Street Map

Figure No.
1

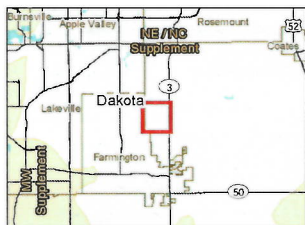
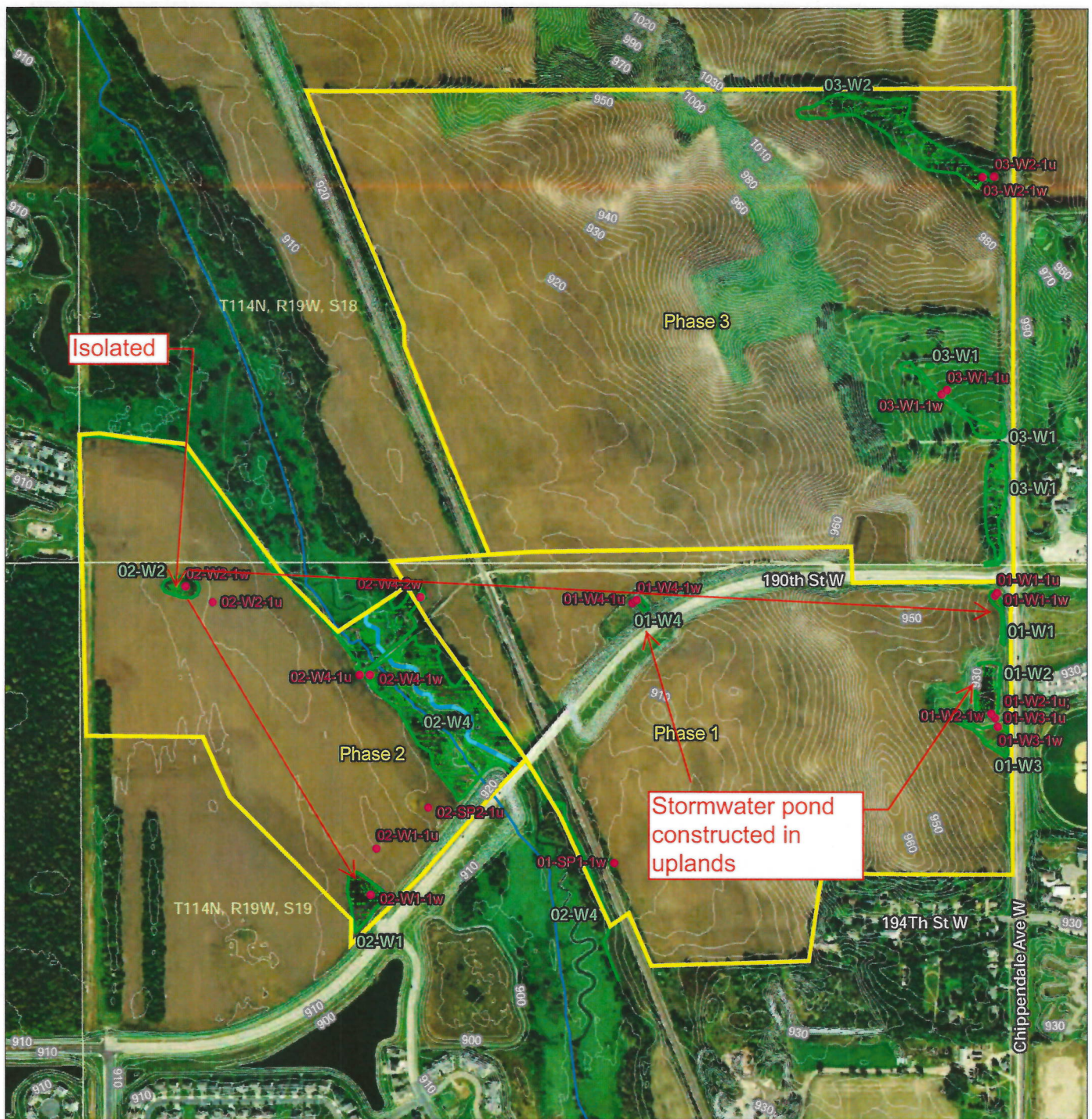
Title

Project Location

Client/Project
True Gravity Ventures, LLC
Fairhill Revival Development
Wetland Delineation

Project Location 193803532
T114N, R19W, S19 Prepared by SF on 2016-11-03
C. of Farmington Technical Review by MP on 2016-11-04
Dakota Co., MN Independent Review by DH on 2016-11-11





Notes

1. Coordinate System: NAD 1983 StatePlane Minnesota South FIPS 2203 Feet
2. Data Sources Include: Stantec, NADS
3. Orthophotography: 2015 NAIP

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Legend

- Approximate Project Boundary
- Sample Point
- Field Sketched Waterway
- Field Delineated Wetland Boundary
- Field Delineated Wetland Area
- 2ft Elevation Contour
- National Hydrography Data
- Perennial Stream
- Intermittent Stream
- Waterbody

Figure No.
5Title
Field Collected DataClient/Project
True Gravity Ventures, LLC
Fairhill Revival Development
Wetland Delineation

Project Location T114N, R19W, S19, C. of Farmington Dakota Co., MN	193803532 Prepared by SF on 2016-11-03 Technical Review by MP on 2016-11-04 Independent Review by JS on 2017-06-07
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1:9,600 (at original document size of 8.5x11)

