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): December 7, 2016

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: ArcelorMittal Minorca Mine Laurentian Pit Progression, 2016-02869-DWW

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: Minnesota  County/parish/borough: St. Louis County  City: Gilbert
   Center coordinates of site (lat/long in degree decimal format): Lat. 47.491174° N, Long. -92.4482208° W.
   Universal Transverse Mercator: 15
   Name of nearest waterbody:
   Name of watershed or Hydrologic Unit Code (HUC): St. Louis, 04010201
   ☒ 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: November 15, 2016
   ☒ Field Determination. Date(s): September 1, 2016

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):†
      ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
      Explain: This review area was heavily disturbed by previous mine activities, road building and maintenance activities, and utility maintenance activities. Wetlands LPP-01, LPP-02, LPP-03, LPP-04, LPP-05, LPP-06, LPP-07, LPP-08, LPP-09, LPP-10, LPP-11, LPP-12, LPP-13, LPP-14, LPP-15, LPP-16, LPP-17, LPP-18, LPP-19, LPP-20, LPP-21, LPP-22, LPP-23, LPP-24, LPP-25, LPP-26, LPP-27, LPP-28, LPP-29, LPP-30, LPP-31, LPP-32, LPP-33, LPP-34, LPP-35, and LPP-38, and the Mariska open-water pit do not have a surface or subsurface connection to a Navigable water of the United States. These aquatic resources were determined to be depressional areas that are located in topographic depressions within the landscape with no outlet. This area was visited on 1 Sept 2016 by Corps regulatory staff; no surface connections were present between these aquatic resources and any other waters during the visit. A desktop determination was completed on 15 Nov 2016; desktop resources such as aerial photography, LiDAR derived elevation models and contours, and stream and wetland, were reviewed and we determined that there are no surface connections between these aquatic resources and other waters.

   The Wetlands LPP-01 (0.26 acre), LPP-02 (0.10 acre), LPP-03 (0.30 acre), LPP-04 (0.34 acre), LPP-05 (0.01 acre), LPP-06 (0.05 acre), LPP-07 (0.02 acre), LPP-08 (0.01 acre), LPP-09 (0.13 acre), LPP-10 (0.06 acre), LPP-11 (0.01 acre), LPP-12 (0.08 acre), LPP-13 (0.20 acre), LPP-14 (0.59 acre), LPP-15 (0.56 acre), LPP-16 (3.37 acres), LPP-17 (0.72 acre), LPP-18 (2.38 acres), LPP-19 (0.13 acre), LPP-20 (0.28 acre), LPP-21 (0.04 acre), LPP-22 (0.08 acre), LPP-23 (0.07 acre), LPP-24 (0.24 acre), LPP-25 (0.03 acre), LPP-26 (0.01 acre), LPP-27 (0.10 acre), LPP-28 (0.25 acre), LPP-29 (0.08 acre), LPP-30 (0.06 acre), LPP-31 (0.86 acre), LPP-32 (0.02 acre), LPP-33 (0.01 acre), LPP-34 (0.03 acre), LPP-35 (0.04 acre), and LPP-38 (0.14 acre), and the Mariska open-water pit (approx. 26 acres) 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; do not

† Supporting documentation is presented in Section III.F.
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 commerce. The aquatic resources were determined to not be jurisdictional under the CWA because the aquatic resources lacked links to interstate commerce sufficient to serve as a basis for jurisdiction.

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: 26 acres. List type of aquatic resource: Open-water pit.

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: Barr Engineering
- 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:
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s): MnDNR
B. ADDITIONAL COMMENTS TO SUPPORT JD: This review area was heavily disturbed by previous mine activities, road building and maintenance activities, and utility maintenance activities.

The Wetlands LPP-01 (0.26 acre/deep marsh), LPP-02 (0.10 acre/shrub-carr), LPP-03 (0.30 acre/alder thicket), LPP-04 (0.34 acre/shallow marsh), LPP-05 (0.01 acre/shallow marsh), LPP-06 (0.05 acre/shallow marsh), LPP-07 (0.02 acre/fresh wet meadow), LPP-08 (0.01 acre/shallow marsh), LPP-09 (0.13 acre/shrub-carr), LPP-10 (0.06 acre/hardwood swamp), LPP-11 (0.01 acre/sedge meadow), LPP-12 (0.08 acre/shrub-carr), LPP-13 (0.20 acre/shrub-carr), LPP-14 (0.59 acre/alder thicket), LPP-15 (0.56 acre/shrub-carr), LPP-16 (3.37 acres/shrub-carr), LPP-17 (0.72 acre/hardwood swamp), LPP-18 (2.38 acres/shrub-carr), LPP-19 (0.13 acre/fresh wet meadow), LPP-20 (0.28 acre/shrub-carr), LPP-21 (0.04 acre/fresh wet meadow), LPP-22 (0.08 acre/shrub-carr), LPP-23 (0.07 acre/shrub-carr), LPP-24 (0.24 acre/shrub-carr), LPP-25 (0.03 acre/shrub-carr), LPP-26 (0.01 acre/fresh wet meadow), LPP-27 (0.10 acre/shrub-carr), LPP-28 (0.25 acre/shrub-carr), LPP-29 (0.08 acre/seasonally flooded basin), LPP-30 (0.06 acre/deep marsh), LPP-31 (0.86 acre/shrub-carr), LPP-32 (0.02 acre/shrub-carr), LPP-33 (0.01 acre/shrub-carr), LPP-34 (0.03 acre/shrub-carr), LPP-35 (0.04 acre/shallow marsh), and LPP-38 (0.14 acre/hardwood swamp), and the Mariska open-water pit (approx. 26 acres/deep water habitat) do not have a surface or subsurface connection to a Navigable water of the United States (See Figure 3, 7 and Figure 8-1 through 8-4).
WETLAND DELINEATION
OVERVIEW
ArcelorMittal Minorca Mine
St. Louis County, MN
FIGURE 7

Berm
Study Area
Previously Mapped Wetlands
Deepwater Habitat
Figure 8 Map Extents

Delineated Wetlands (2016)
- Seasonally Flooded Basin
- Shrub Swamps (Alder thickets & Shrub-carrs)
- Sedge meadow; Wet meadow
- Shallow Marsh
- Deep Marsh
- Hardwood Swamp

Image Source: FSA (2015)

2016-02869-DWW
Figure 8-2

- Upland Plot
- Wetland Plot
- Berm
- Access Roads
- Study Area
- Deepwater Habitat
- Previously Mapped Wetlands

LiDAR Elevation Contours (2011)
- 10-Foot Contour
- 2-Foot Contour

Delineated Wetlands (2016)
- Seasonally Flooded Basin
- Shrub Swamps (Alder thickets & Shrub-carrs)
- Sedge meadow; Wet meadow
- Shallow Marsh
- Deep Marsh
- Hardwood Swamp

Image Source: St. Louis County (2013)
WETLAND DELINEATION DETAIL MAP

ArcelorMittal Minorca Mine
St. Louis County, MN

Figure 8-3

Image Source: St. Louis County (2013)