



Regulatory Program

APPROVED JURISDICTIONAL DETERMINATION FORM U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in the Approved Jurisdictional Determination Form User Manual.

SECTION I: BACKGROUND INFORMATION

A. COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): December 3, 2019

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): MVP-2019-01665-KJH

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Minnesota County/parish/borough: Dodge County City: Mantorville

Center coordinates of site (lat/long in degree decimal format): Lat. 44.092866, Long. -92.751756.

Map(s)/diagram(s) of review area (including map identifying single point of entry (SPOE) watershed and/or potential jurisdictional areas where applicable) is/are: attached in report/map titled

Other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different JD form. List JD form ID numbers (e.g., HQ-2015-00001-SMJ-1):

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office (Desk) Determination Only. Date: November 27, 2019.

Office (Desk) and Field Determination. Office/Desk Date(s): Field Date(s):

SECTION II: DATA SOURCES

Check all that were used to aid in the determination and attach data/maps to this JD form and/or references/citations in the administrative record, as appropriate.

Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant. Title/Date: Novel Debra Solar, LLC July 8, 2019.

Data sheets prepared/submitted by or on behalf of the applicant/consultant.

Office concurs with data sheets/delineation report.. Title/Date: Novel Debra Solar, LLC July 8, 2019.

Office does not concur with data sheets/delineation report. Summarize rationale and include information on revised data sheets/delineation report that this JD form has relied upon: Revised Title/Date:

Data sheets prepared by the Corps. Title/Date:

Corps navigable waters study. Title/Date:

CorpsMap ORM map layers. Title/Date:

USGS Hydrologic Atlas. Title/Date:

USGS, NHD, or WBD data/maps. Title/Date:

USGS 8, 10 and/or 12 digit HUC maps. HUC number:

USGS maps. Scale & quad name and date: USGS 1:24k Quad Dodge Center.

USDA NRCS Soil Survey. Citation: NRCS Web Soil Survey.

USFWS National Wetlands Inventory maps. Citation: US FWS.

State/Local wetland inventory maps. Citation:

FEMA/FIRM maps. Citation: FEMA's National Flood Hazard Layer (NFHL) Viewer.

Photographs: Aerial. Citation: Google Earth. or Other. Citation:

LiDAR data/maps. Citation: Dodge County.

Previous determinations. File no. and date of jurisdictional determination letter:

Applicable/supporting case law:

Applicable/supporting scientific literature:

Other information (please specify):

SECTION III: SUMMARY OF FINDINGS

Complete Spreadsheet Tab “Aquatic Resources” – Required for All AJDs

A. RIVERS AND HARBORS ACT (RHA) SECTION 10 DETERMINATION OF JURISDICTION:

“*navigable waters of the U.S.*” within RHA jurisdiction (as defined by 33 CFR part 329) in the review area.

- **List water(s) and area/length within review area – Required:**

NOTE: If the navigable water is not subject to the ebb and flow of the tide or included on the District’s list of Section 10 navigable waters list, **DO NOT USE THIS FORM TO MAKE THE DETERMINATION.** The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Section 10 RHA navigability determination.

B. CLEAN WATER ACT (CWA) SECTION 404 DETERMINATION OF JURISDICTION: “waters of the U.S.” within CWA jurisdiction (as defined by 33 CFR part 328.3) in the review area. **Check all that apply.**

- (a)(1): All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (Traditional Navigable Waters or TNW).
- **Complete Spreadsheet Tab “(a)(1)” - Required**
- This JD includes a case-specific (a)(1) TNW (Section 404 navigable-in-fact) determination on a water that has not previously been designated as such. Documentation required for this case-specific (a)(1) TNW determination is attached.
- (a)(2): All interstate waters, including interstate wetlands.
- **Complete Spreadsheet Tab “(a)(2)” - Required**
- (a)(3): The territorial seas.
- **Complete Spreadsheet Tab “(a)(3)” - Required**
- (a)(4): All impoundments of waters otherwise identified as waters of the U.S. under 33 CFR part 328.3.
- **Complete Spreadsheet Tab “(a)(4)” - Required**
- (a)(5): All tributaries, as defined in 33 CFR part 328.3, of waters identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
- **Complete Spreadsheet Tab “(a)(5)” - Required**
- (a)(6): All waters adjacent to a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters.
- **Complete Spreadsheet Tab “(a)(6)” - Required**
- Bordering/Contiguous.
Neighboring:
- (c)(2)(i): All waters located within 100 feet of the ordinary high water mark (OHWM) of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3.
- (c)(2)(ii): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 and not more than 1,500 feet of the OHWM of such water.
- (c)(2)(iii): All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (a)(1) or (a)(3) of 33 CFR part 328.3, and all waters within 1,500 feet of the OHWM of the Great Lakes.
- (a)(7): All waters identified in 33 CFR 328.3(a)(7)(i)-(v) where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
- **Complete Spreadsheet Tab “(a)(7)” for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(7) waters identified in the similarly situated analysis. – Required**
- Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus analysis.
- (a)(8): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3 not covered by (c)(2)(ii) above and all waters located within 4,000 feet of the high tide line or OHWM of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
- **Complete Spreadsheet Tab “(a)(8)” for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(8) waters identified in the similarly situated analysis. – Required**
- Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus analysis.

C. NON-WATERS OF THE U.S. FINDINGS:

Check all that apply.

- The review area is comprised entirely of dry land.

- Potential-(a)(7) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
- **Complete Spreadsheet Tab “NonWaters-No SigNex”. Attach a map delineating the SPOE watershed boundary with potential (a)(7) waters identified in the similarly situated analysis. – Required**
- Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus analysis.
- Potential-(a)(8) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.
- **Complete Spreadsheet Tab “NonWaters-No SigNex”. Attach a map delineating the SPOE watershed boundary with potential (a)(8) waters identified in the similarly situated analysis. – Required**
- Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus analysis.
- Excluded Waters (Non-Waters of U.S.), even where they otherwise meet the terms of paragraphs (a)(4)-(a)(8):
- **Complete Spreadsheet Tab “NonWaters-Excluded” - Required**
- (b)(1): Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA.
- (b)(2): Prior converted cropland.
- (b)(3)(i): Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.
- (b)(3)(ii): Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.
- (b)(3)(iii): Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1)-(a)(3).
- (b)(4)(i): Artificially irrigated areas that would revert to dry land should application of water to that area cease.
- (b)(4)(ii): Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds.
- (b)(4)(iii): Artificial reflecting pools or swimming pools created in dry land.¹
- (b)(4)(iv): Small ornamental waters created in dry land.¹
- (b)(4)(v): Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water.
- (b)(4)(vi): Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways.¹
- (b)(4)(vii): Puddles.¹
- (b)(5): Groundwater, including groundwater drained through subsurface drainage systems.¹
- (b)(6): Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.¹
- (b)(7): Wastewater recycling structures created in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.
- Other non-jurisdictional waters/features within review area that do not meet the definitions in 33 CFR 328.3 of (a)(1)-(a)(8) waters and are not excluded waters identified in (b)(1)-(b)(7).
- **Complete Spreadsheet Tab “NonWaters-Other” - Required**

D. ADDITIONAL COMMENTS TO SUPPORT JD: The review area measures approximately 19.6 acres and includes two wetlands identified as Wetland 1 (0.55 acre) and Wetland 3 (344 square feet) located in depressions within an agricultural field. There is no natural or man-made discrete and/or confined surface water connection between the wetlands and any other jurisdictional water. There are no culverts or tributaries that provide flow to or from the wetlands. There is no evidence of surface-water flow to or from the wetlands. There are no shallow subsurface connections to any other jurisdictional waters of the U.S. The land use around the wetland is agricultural. Wetland 1 and Wetland 3 are not located in a 100 year floodplain of an (a)(1)-(a)(3) water and occur outside the 4000 foot threshold of an (a)(1)-(a)(5) water. We have determined that these wetlands are not a water of the U.S.

¹ In many cases these excluded features will not be specifically identified on the approved JD form, unless specifically requested. Corps Districts may, in case-by-case instances, choose to identify some or all of these features within the review area.

Aquatic Resources

Waters_Name	Cowardin_Code	HGM_Code	Meas_Type	Amount	Units	Waters_Type	Latitude	Longitude	Local_Waterway
Wetland 1	PEM1		Area	0.55	ACRE	OTHERDIST	44.09407	-92.75218	
Wetland 3	PEM1		Area	0.1	ACRE	OTHERDIST	44.09398	-92.74883	

WATERS OF THE U.S.			
(a)(1) Waters Name	OHWM or HTL Present?	(a)(1) Criteria	Rationale to Support (a)(1) Designation
Waters_Name			

WATERS OF THE U.S.		
(a)(2) Waters Name	Measured from Wetland or OHWM	Rationale to Support (a)(2) Designation
Waters_Name		

WATERS OF THE U.S.	
(a)(3) Waters Name	Rationale to Support (a)(3) Designation
Waters_Name	

WATERS OF THE U.S.										
SPOE Name	(a)(8) Waters Name	(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus	Measured from OHWM or HTL?	OHWM Present for (a)(8) Water?	(a)(8) Criteria	Limits (boundaries) of Jurisdiction (use indicator(s) to the right)	Were Any Waters Determined to be Similarly Situated?	Functions of the Waters (Individual or Similarly Situated) that Contribute to the Chemical, Physical, or Biological Integrity of the (a)(1)-(a)(3) Water (use indicator(s) to the right)	Significant Nexus Determination	Geographically and Physically Adjacent Waters per (a)(6) But Subject to 33 USC 1344(f)(1)?
	Waters Name									

NONWATERS, NO SIGNIFICANT NEXUS									
SPOE Name	Non-(a)(7)/(a)(8) Waters Name	Waters Subtype	(a)(1)-(a)(3) Water Name to which this Water DOES NOT have a Significant Nexus	Measured from OHWM or HTL (for Non-(a)(8) Water)?	OHWM Present (for Non-(a)(8) Water)?	Limits (boundaries) of Waters (use indicator(s) to the right)	Were Any Waters Determined to be Similarly Situated?	Functions Assessed (use indicator(s) to the right)	Basis for Determination that the Functions DO NOT Contribute Significantly to the Chemical, Physical, or Biological Integrity of the (a)(1)-(a)(3) Water.
	Waters Name								

EXCLUDED WATERS OR FEATURES		
(b) Excluded Feature/Water Name	(b) Exclusion Criteria	Rationale for (b) Excluded feature and Additional Discussion.
Waters Name		

OTHER NONJURISDICTIONAL WATERS/FEATURES		
Other NonWater of US Waters /Features	NonWaters/Other NJD Criteria	Rationale for NonWater of US/Feature and Additional Discussion
Wetland 1	Outside distance threshold or 100 yr floodplain	Wetland 1 is not located in a 100 year floodplain of an (a)(1)-(a)(3) water and occurs outside of the 4000 foot threshold of an (a)(1)-(a)(5) water.
Wetland 3	Outside distance threshold or 100 yr floodplain	Wetland 3 is not located in a 100 year floodplain of an (a)(1)-(a)(3) water and occurs outside of the 4000 foot threshold of an (a)(1)-(a)(5) water.