

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): JAN 18 2017

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2016-03747-RMM

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

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

Center coordinates of site (lat/long in degree decimal format): Lat. 44.77416° N, Long. 93.14246° W.

Universal Transverse Mercator:

Name of nearest waterbody: Mississippi 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: December 5, 2016

☐ 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):¹

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: Three wetlands within the review area were determined to be isolated (WB1, WB2, and WB 3). Review of the Dakota County Soil Survey shows non-hydric or predominantly non-hydric soils in the areas of all the wetlands. The NWI map depicts all three resources; however, it does not show them being connected to any larger wetland complex that may be associated with a tributary. The LiDAR map shows the three wetlands are located in a topographical low area surrounded by higher ground. The USGS topo map also denotes WB1 and WB3 as having the closed inward facing hash marks, generally depicting an isolated basin. There were no outlets identified or any other surface or shallow subsurface connections to a water of the U.S. in any of the wetlands. USGS NHD was reviewed and there were no streams within approximately 2,000 linear feet of the review area. The wetlands are surrounded by upland. There are no other indicators of a surficial hydrologic connection to any water of the U.S. Due to the disturbed nature of this area, the wetlands do not have an ecological connection to other waters within or adjacent to the review area. Thus, WB1, WB2, and WB3 are isolated wetlands and are non-jurisdictional.

The waterbodies described above, WB1, WB2, and WB3, 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.

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: WB1: 2.17 acres, WB2: 0.63 acre, and WB3: 3.57 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.

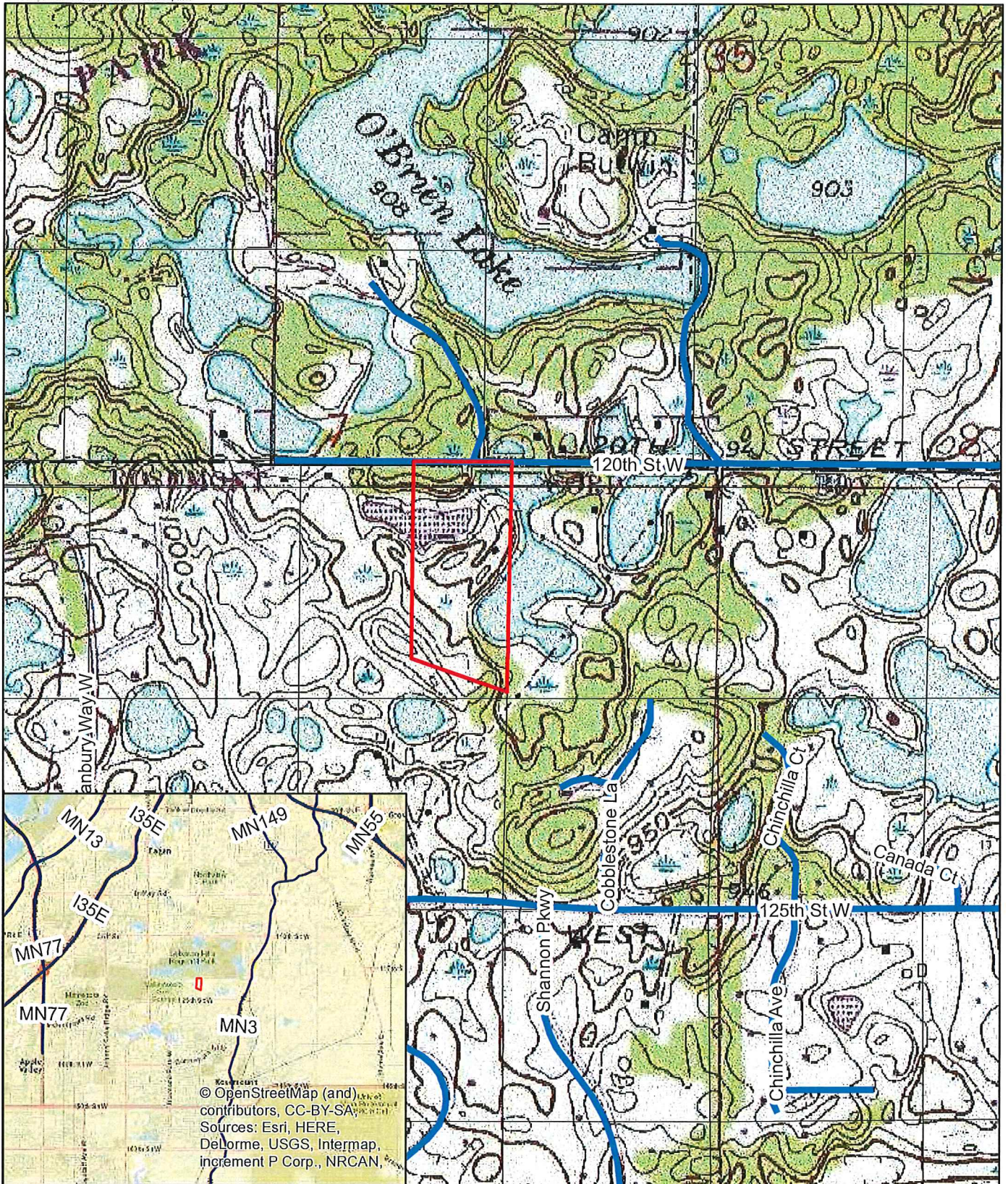
SECTION IV: DATA SOURCES.

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:
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Dakota County SSURGO
- ☒ National wetlands inventory map(s). Cite name: USFWS NWI
- ☒ State/Local wetland inventory map(s): MN DNR PWI
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): 2013 FSA
 - 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: .

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Data Source(s): MnGeo WMS service (aerial photography), Westwood (2016)



0 500 1,000 Feet

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Legend

- Project Area
- Dakota Co. Roads

Stein Property

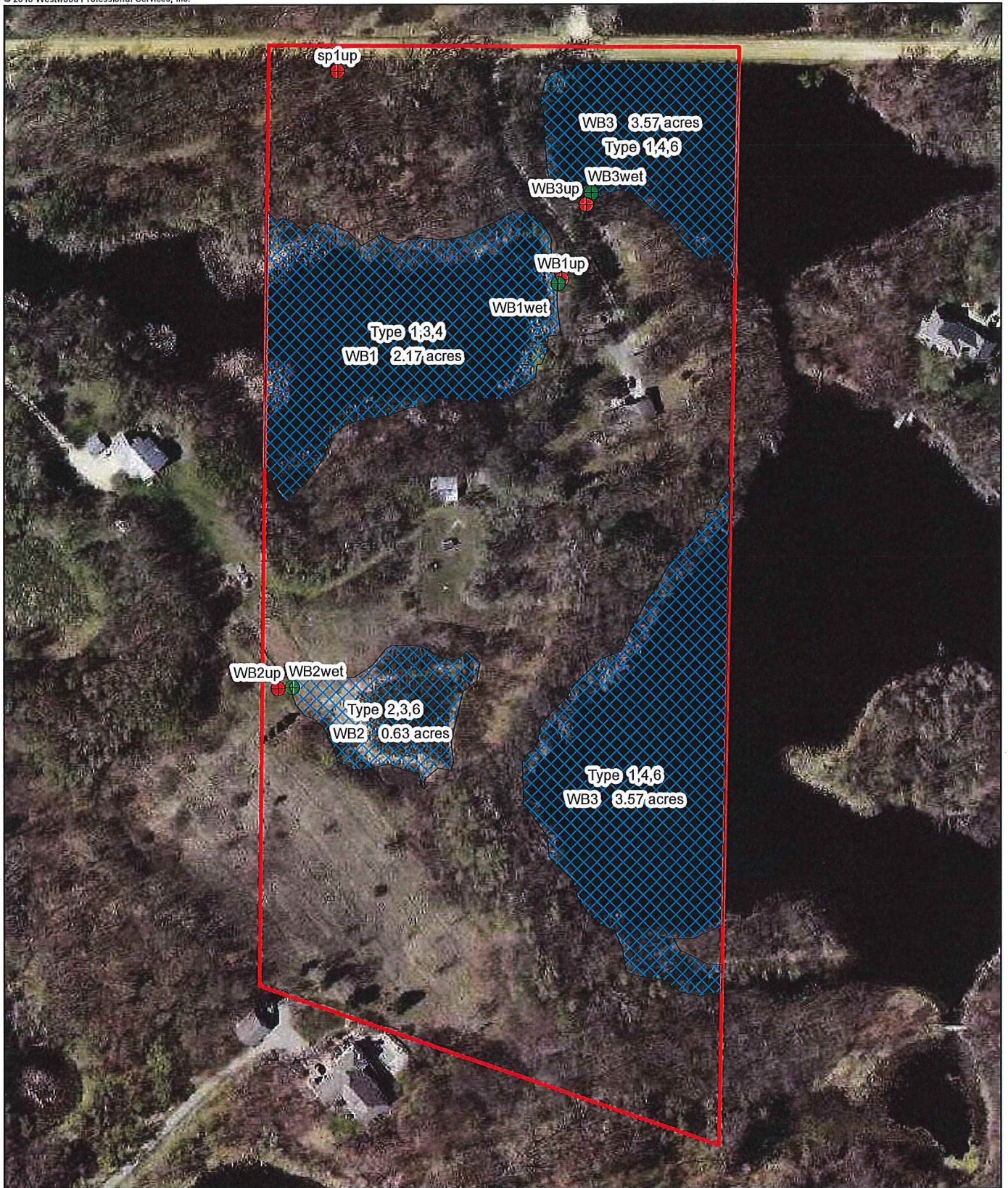
Rosemount, Minnesota

Site Map

PIN 037-340181015020

EXHIBIT 1

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Data Source(s): MnGeo WMS service (aerial photography), Westwood GPS data (2016)

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0 100 200 Feet

Legend

- Project Area
- Upland Sample Point
- Wetland Sample Point
- Delineated Wetlands

Stein Property

Rosemount, Minnesota

Delineated Wetlands

EXHIBIT 5