

**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):** JUL 28 2017

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** 2016-04247-LMG 18040 Medina Road

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Minnesota

County/parish/borough: Hennepin City: Plymouth

Center coordinates of site (lat/long in degree decimal format): Lat. 45.02526° N, Long. -93.50993° W.

Universal Transverse Mercator:

Name of nearest waterbody: Bassett Creek

Name of watershed or Hydrologic Unit Code (HUC):

☒ 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: May 19, 2017

☒ Field Determination. Date(s): April 28, May 18, and May 19, 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):<sup>1</sup>**

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: There are 4 wetlands and 2 ditches within the review area as shown on the enclosed figures labeled MVP-2016-04247-LMG Page 1 of 4 through Page 4 of 4. Basins 1, 2 and 3 are depressional basins that do not have a surface or shallow subsurface hydrologic connection to any navigable waters or their tributaries. These wetlands are surrounded by upland, and have no swales, pipes or other means to connect them to waters of the U.S. (WOUS). The Corps conducted a site visit on April 28, 2017 which was preceded by heavy rains. During the site visit, it was observed that no water from Basins 1, 2 or 3 overflowed into any other aquatic resources on site or offsite via culverts or roadside ditches.

Basin 4 is an ornamental pond which was constructed in uplands during the 1960s. This was confirmed by reviewing the Hennepin County soil survey which has the basin and surrounding area mapped as non-hydric soil. The non-jurisdictional determination for this pond is in accordance with the preamble to the 1986 Corps Regulations (33 CFR Parts 320-330), which states that the Corps does not generally consider the following to be waters of the US; 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.

Three hand dug ditches are present in the review area. These ditches were constructed in uplands and do not carry a relatively permanent flow of water. Saturated overland flow may be observed during or following storm events, but the ephemeral hand-dug channel flows only for short durations during wet periods.

<sup>1</sup> Supporting documentation is presented in Section III.F.

A potential wetland between the 2 segments of ditch was assessed, but did not meet the criteria in the 1987 Corps of Engineers Delineation Manual and Midwest Regional Supplement. Hydric soils and indicators of wetland hydrology were not present.

### 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): **The ornamental pond is not a water of the US pursuant to the preamble to the Corps 1986 regulations (33 CFR Parts 320-330).**

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: 0.16 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.

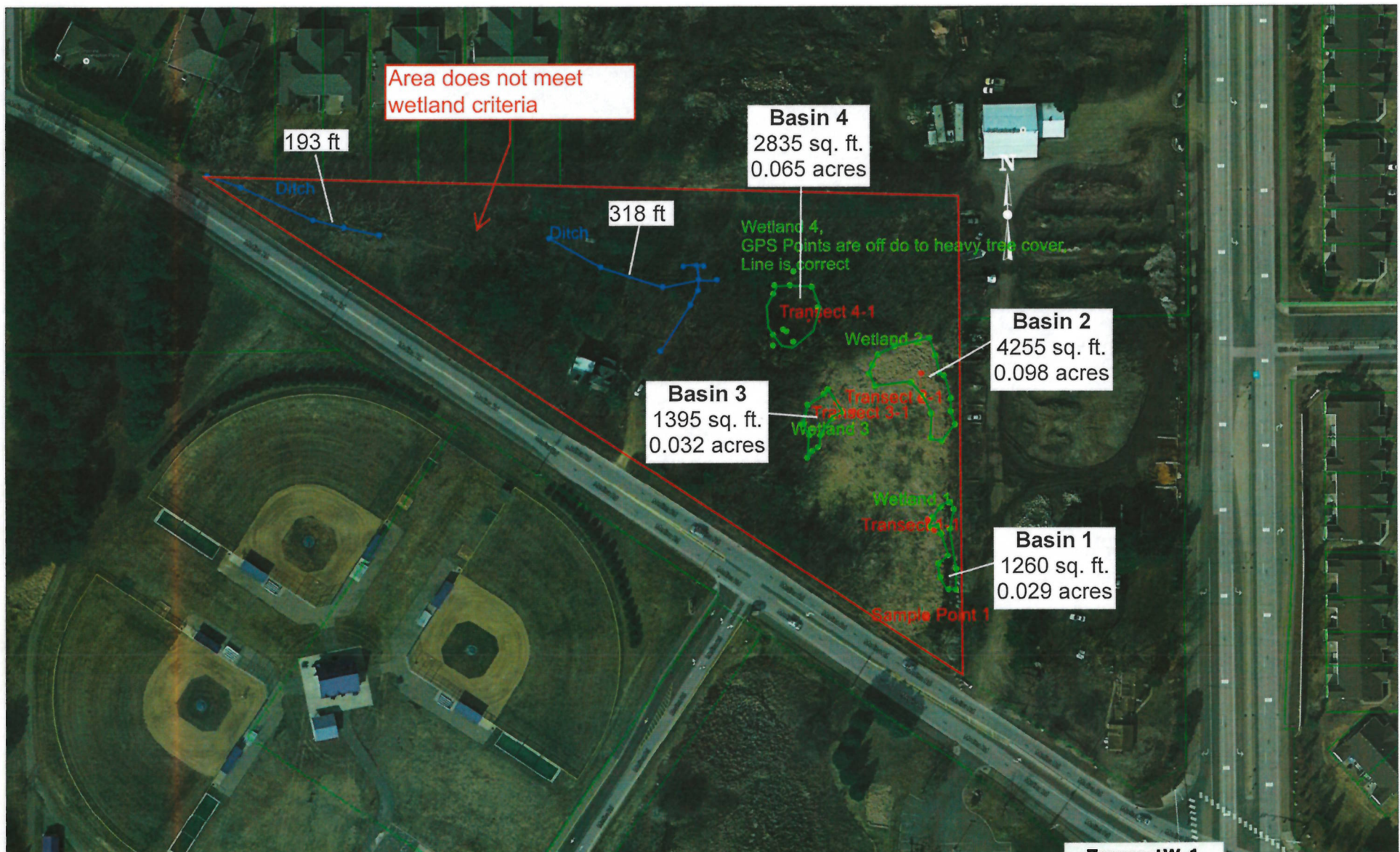
A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Jacobson Environmental
- ☒ 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: 1:24K Hamel
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Hennepin County Soil Survey
- ☒ National wetlands inventory map(s). Cite name: USFWS NWI
- ☒ State/Local wetland inventory map(s): MnDNR NWI
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): FSA 1991-2013

- or ☒ Other (Name & Date): Google Earth 1991-2016
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): Hennepin County LiDAR data

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**





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Figure 5 Wetland Delineation Map

