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): 07/23/2018

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2017-03985-KBH

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
    State: MN   County/parish/borough: Dakota   City: Eagan
    Center coordinates of site (lat/long in degree decimal format): Lat. 44.77984° N, Long. -93.119167° W
    Universal Transverse Mercator:
    Name of nearest waterbody: Mississippi River
    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: March 8, 2018
    ☐ 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: The review is for this AJD encompasses the aquatic resource identified as wetland 1 (0.06 acre). The wetland was examined, including a review of aerial photography, LiDAR maps, and National Wetland Inventory maps. The NWI map does not identify the wetland. There are no outlets identified or any other surface connection to a water of the U.S. in the wetland. There are no other indicators of a surficial or subsurface hydrologic connection to any water of the U.S.

       The water body described above does not support a link to interstate or foreign commerce because it is not known to be used by interstate or foreign travelers for recreation or other purposes; it does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and it is not known to be used for industrial purposes for interstate or foreign commerce. The waterbody has been determined to be non-jurisdictional under the Clean Water Act because the wetland lacks a connection and/or relationship sufficient of 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

¹ Supporting documentation is presented in Section III.F.
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: Wetland 1 is 0.06 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: Kjolhaug Environmental Services
   - 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: USFWS 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): Google Earth /
   - 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): Dakota County LiDAR

B. ADDITIONAL COMMENTS TO SUPPORT JD:
Figure 1 - Site Location

4895 Dodd Road (KES 2017-210)
Eagan, Minnesota

Note: Boundaries indicated on this figure are approximate and do not constitute an official survey product.
Marsh Lake is covered by the PJD and may be a water of the U.S. subject to Corps jurisdiction under section 404 of the CWA.

Wetland 2 is covered by the PJD and may be a water of the U.S. subject to Corps jurisdiction under section 404 of the CWA.

Wetland 2A is covered by the PJD and may be a water of the U.S. subject to Corps jurisdiction under section 404 of the CWA.

Wetland 1 is covered by the AJD and is not a water of the U.S. and is not subject to Corps jurisdiction under section 404 of the CWA.

Marsh Lake 0.77-ac onsite (Unnamed 19-308W)

Wetland 1 0.06 acres

Wetland 2 0.48 acres (onsite)

Wetland 2A 0.05 acres (onsite)

Figure 2 - Existing Conditions

2894 Dodd Road (KES 2017-210)
Eagan, Minnesota

Note: Boundaries indicated on this figure are approximate and do not constitute an official survey product.