



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT
332 MINNESOTA STREET, SUITE E1500
ST. PAUL, MN 55101-1323

MVP

14 April 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023),¹ MVP-2025-00368-SSC, MFR 1 of 1²

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.³ AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.⁴

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),⁵ the 2023 Rule as amended,

¹ While the Revised Definition of "Waters of the United States"; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, the territorial seas, or interstate water that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).

³ 33 CFR 331.2.

⁴ Regulatory Guidance Letter 05-02.

⁵ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

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as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

1. SUMMARY OF CONCLUSIONS.

- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).
 - i. WB-01 (0.09 acre), non-jurisdictional
 - ii. WB-02 (0.03 acre), non-jurisdictional
 - iii. WC-01 (0.08 acre, 237 linear feet), non-jurisdictional

2. REFERENCES.

- a. "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule")
- b. "Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 (September 8, 2023)
- c. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)
- d. January 2023 Rule preamble at 88 FR 3090
- e. "Memorandum To The Field Between The U.S. Department Of The Army, U.S. Army Corps Of Engineers And The U.S. Environmental Protection Agency Concerning The Proper Implementation Of 'Continuous Surface Connection' Under The Definition Of 'Waters Of The United States' Under The Clean Water Act" (March 12, 2025)

3. REVIEW AREA.

- a. Project Area Size (in acres): approximately 13 acres
- b. Location Description: The review area is located within Sections 8 and 17, Township 116 North, Range 23 West, Carver County, Minnesota.
- c. Center Coordinates of the Project Site (in decimal degrees) Latitude 44.828244, Longitude -93.562135
- d. Nearest City or Town: Chanhassen
- e. County: Carver
- f. State: Minnesota

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- g. Other associated Jurisdictional Determinations (including outcomes): none
4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. N/A
 5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. N/A
 6. SECTION 10 JURISDICTIONAL WATERS⁶: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁷ N/A
 7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
 - a. Traditional Navigable Waters (TNWs) (a)(1)(i): N/A
 - b. The Territorial Seas (a)(1)(ii): N/A
 - c. Interstate Waters (a)(1)(iii): N/A

⁶ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

⁷ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

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- d. Impoundments (a)(2): N/A
- e. Tributaries (a)(3): N/A
- f. Adjacent Wetlands (a)(4): N/A
- g. Additional Waters (a)(5): N/A

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified in the 2023 Rule as amended as not “waters of the United States” even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).⁸ N/A
- b. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

WB-01, WB-02, and WC-01 are not TNWs, territorial seas, or interstate waters and are therefore not (a)(1) waters. WB-01 and WB-02 do not connect to any other wetlands or tributaries on or off-site. WB-01 and WB-02 were evaluated as potential (a)(4) waters but do not have a continuous surface connection to a jurisdictional water. WC-01 was evaluated as a potential (a)(3) water and was found to not meet this category because it is not a relatively permanent water with a continuous surface connection to a paragraph (a)(1) or (a)(3) water.

The National Wetland Inventory (NWI) and National Hydrography Dataset (NHD) were both reviewed for the site and did not denote the presence of WB-01, WB-02, or WC-01 or any other surface waters flowing through the site. Soils within this area are described as predominantly non-hydric, with two small areas in the southwest and northwest of the site denoted as hydric and predominantly hydric (Soil Survey).

WB-01 and WB-02 are located within a topographically low area alongside Pioneer Trail (roadway). Both of these wetlands appear to have developed after

⁸ 88 FR 3004 (January 18, 2023)

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Pioneer Trail was realigned further north from its original position (between 2006 and 2008, GoogleEarth Imagery). WB-01 flows into a culvert, a discrete feature, which does not directly abut a covered water. WB-02 is located west of WB-01 and is separated from WB-01 by uplands, based on the wetland delineation report submitted on behalf of the applicant. No other aquatic resources were identified in this area of the site.

WC-01 was delineated based on the presence of a bed and bank within the channel. The watercourse flows east where it empties into a constructed stormwater basin. Hillshade and 3DEP (3D Elevation Program) Digital Elevation Modeling (DEM) were reviewed for this area and did not show a continuous surface connection to a jurisdictional water. The stormwater basin is surrounded by uplands.

WB-01 and WB-02 do not have a continuous surface connection to a relatively permanent jurisdictional water and as such do not meet the definition of adjacent and cannot be evaluated as an (a)(4) adjacent wetland; therefore, WB-01 and WB-02 are non-tidal wetlands that are not jurisdictional under the 2023 Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 Final Rule. WC-01 is a tributary evaluated under (a)(3) and determined to not be a relatively permanent water with a continuous surface connection to a paragraph (a)(1) or (a)(3) water; therefore, this non-relatively permanent feature is not jurisdictional under the 2023 "Revised Definition of 'Water of the United States'; Conforming" 88 FR 61964 Final Rule.

9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.
 - a. Brandl Anderson – Bluff Creek Drive Wetland Delineation Report dated May 3, 2024
 - b. US Geological Survey, 3DEP Bare Earth DEM Dynamic service – hillshade and 3DEP DEM, accessed on April 14, 2025
 - c. Google Earth aerial imagery (1991 – present), accessed April 14, 2025
 - d. United States Geological Survey, National Hydrography Dataset, accessed on April 14, 2025
 - e. United States Fish and Wildlife Service, National Wetland Inventory, accessed August 13, 2024

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10. OTHER SUPPORTING INFORMATION. N/A

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.

Westwood

Toll Free (888) 937-6150 westwoodps.com








**Brandl Anderson -
Bluff Creek Drive**

Chanhassen, Carver County, Minnesota

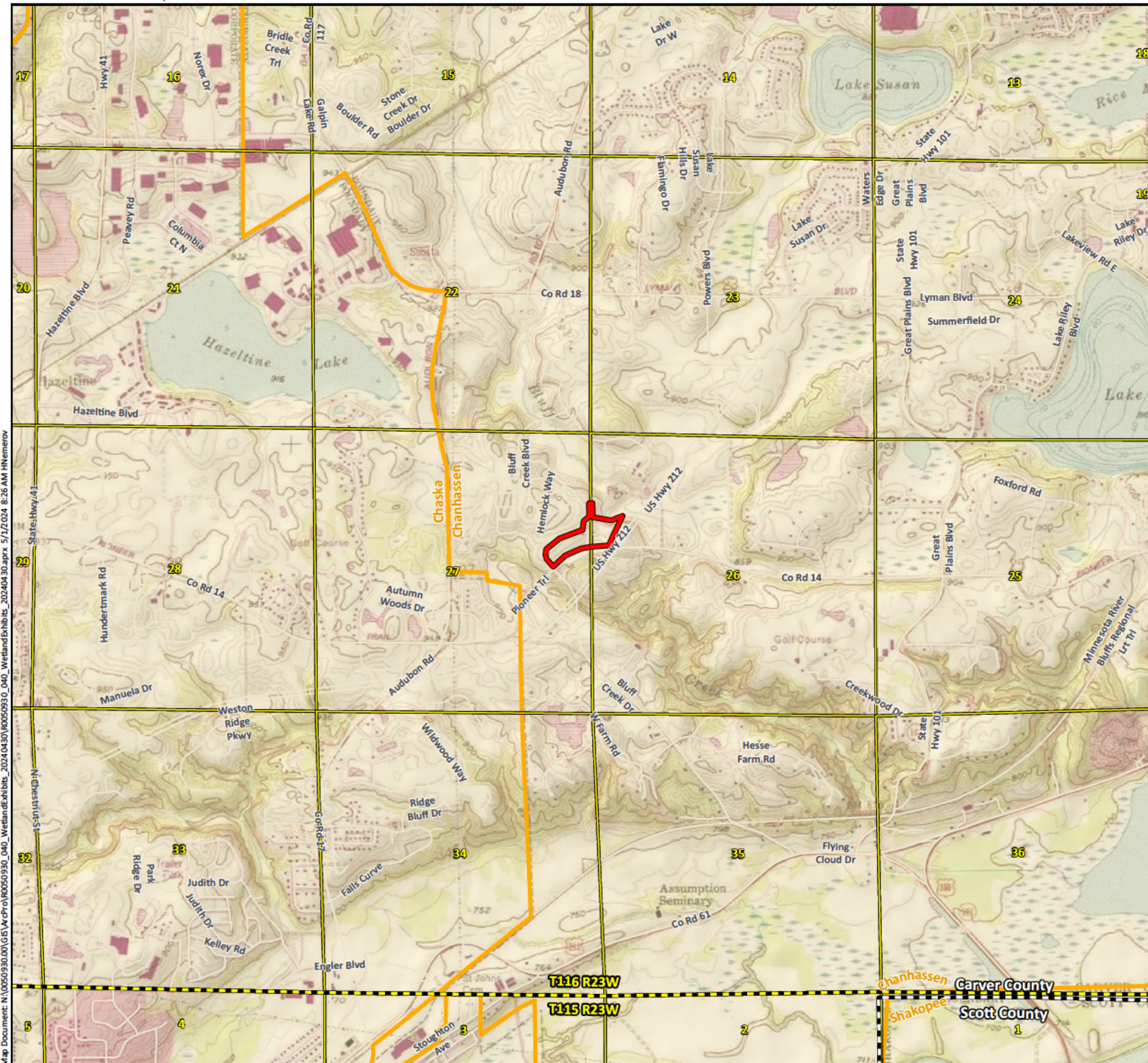
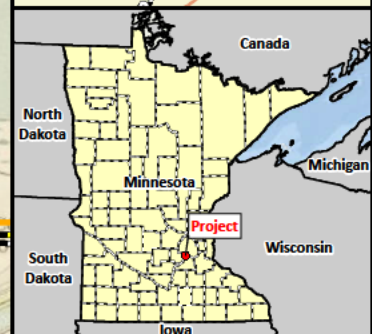
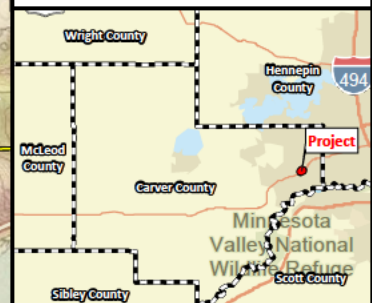
Project Location & USGS
Topography

Exhibit 1

Legend

-  Project Area
-  State Boundary
-  County Boundary
-  PLSS Township
-  PLSS Section
-  Municipal Boundary
-  Road

Data Source(s): Westwood (2024); ESRI WMS USGS Topography and World Streets Basemap (Accessed 2024), U.S. Census Bureau (2023).



**Brandl Anderson -
Bluff Creek Drive**

Chanhasen, Carver County, Minnesota

TEP Review 20240604

Exhibit 5

Legend

Project Area

Feature_ID

Offsite Wetland for MnRAM Analysis



Field Delineated Wetland



Field Delineated Watercourse



Road



Wetland Sample Point



Upland Sample Point



Non-Wetland Sample Point



Watercourse Sample Point



Non-Watercourse Sample Point



Culvert

LAYER

10 ft Contour



2 ft Contour

Data Source(s): Westwood (2024); NAIP (2023), U.S. Census Bureau (2023).



200 Feet

GRADING & EROSION CONTROL LEGEND

| EXISTING | PROPOSED | PROPERTY LINE |
|----------|----------|----------------------------------|
| 10-19 | 18-19 | SOIL BORING LOCATION |
| 20-29 | 20-29 | INDEX CONTOUR |
| 30-39 | 30-39 | INTERNAL CONTOUR |
| 40-49 | 40-49 | SPOT ELEVATION |
| 50-59 | 50-59 | HIGHLOW POINT |
| 60-69 | 60-69 | CL-CL ELEVATION |
| 70-79 | 70-79 | CL-CL ELEVATION |
| 80-89 | 80-89 | FLOW DIRECTION |
| 90-99 | 90-99 | TOP AND BOTTOM OF RETAINING WALL |
| 100-109 | 100-109 | EMERGENCY OVERFLOW |
| 110-119 | 110-119 | PROPOSED STREET PROFILE GRADE |
| 120-129 | 120-129 | STORM SEWER |
| 130-139 | 130-139 | TREE PROTECTION FENCE |
| 140-149 | 140-149 | RETAINING WALL (MODULAR BLOCK) |
| 150-159 | 150-159 | GRADING LIMITS |
| 160-169 | 160-169 | SILT FENCE |
| 170-179 | 170-179 | SILT FENCE-POST GRADING |
| 180-189 | 180-189 | HEAVY DUTY SILT FENCE |
| 190-199 | 190-199 | REDUNDANT SEDIMENT CONTROL |
| 200-209 | 200-209 | PALET PROTECTION |
| 210-219 | 210-219 | EROSION CONTROL CHECKS/BORROWS |
| 220-229 | 220-229 | ROCK CONSTRUCTION ENTRANCE |
| 230-239 | 230-239 | EROSION CONTROL BLANKET |
| 240-249 | 240-249 | TURF REINFORCEMENT MAT |
| 250-259 | 250-259 | POND NORMAL WATER LEVEL |
| 260-269 | 260-269 | WETLAND BUFFER |
| 270-279 | 270-279 | POND ACCESS MAINTENANCE BENCH |
| 280-289 | 280-289 | WETLAND BUFFER LIMITS |
| 290-299 | 290-299 | WETLAND BUFFER MONUMENT |
| 300-309 | 300-309 | DO NOT DISTURB |
| 310-319 | 310-319 | WETLAND IMPACT |
| 320-329 | 320-329 | WATER COURSE IMPACT |



PRELIMINARY PLANS

PREPARED FOR:

PIONEER RIDGE, LLC.

221 RIVER RIDGE CIRCLE S
BURNSVILLE, MN 55337

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME
OR UNDER MY DIRECT SUPERVISION AND THAT I AM A
DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS
OF THE STATE OF MINNESOTA

DATE: 03/12/2025 LICENSE NO. 41257

PIONEER RIDGE
CHANHASSEN, MINNESOTA

Westwood

Phone (952) 937-5150 12701 Whitewater Drive, Suite #300
Fax (952) 937-5822 Minnetonka, MN 55343
Toll Free (888) 937-5150 westwoodps.com
Westwood Professional Services, Inc.

WETLAND EXHIBIT

PROJECT NUMBER: 0050930.00

SHEET NUMBER:

1

OF

1

DATE: 03/12/2025

PIONEER RIDGE