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): 21MAR2018

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Cargill Pipestone Facility, MVP-2017-04393-JTB

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: MN
County/parish/borough: Pipestone
City: Pipestone

Center coordinates of site (lat/long in degree decimal format): Lat. 43.9627° N, Long. -96.3361° W.

Universal Transverse Mercator: 14

Name of nearest waterbody: Split Rock Creek

Name of watershed or Hydrologic Unit Code (HUC): 10170203

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: 30JAN2018
☐ 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: There are multiple wetlands in the review area, however, this determination is only for wetlands labeled as Wetland 1 and Wetland 2 on the enclosed figures labeled MVP-2017-04393-JTB, Figure 1 of 4 through Figure 4 of 4. Wetlands 1 and 2 are temporarily flooded depressional basins that do not have a surface or shallow subsurface hydrologic connection to any navigable waters or their tributaries, as confirmed in the Cargil Pipestone Facility Wetland Delineation Report submitted on December 19, 2017. The wetlands are surrounded by upland, and have no swales, pipes or other means to connect them to waters of the U.S. (WOUS). Wetland 1 and Wetland 2 are not identified as wetlands on the National Wetland Inventory (NWI). Wetlands 1 and 2 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; do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and are not known to be used for industrial purposes by industries in interstate or foreign commerce. These wetlands do not have an ecological connection to other waters within the review area. Wetlands 1 and 2 were determined to not be jurisdictional under the CWA.

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):
- [ ] 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).
- [ ] 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 - 0.04 acres, Wetland 2 - 0.11 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: Pinnacle Engineering, Inc.
- [ ] 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: MN-1:24k-Pipestone South
- [ ] USDA Natural Resources Conservation Service Soil Survey. Citation: Pipestone County Soil Survey
- [ ] 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): FSA 2013
  or [ ] Other (Name & Date): Google Earth
- [ ] 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: Based on the wetland delineation report completed for the Cargil Pipestone Facility, Wetlands 1 and 2 are isolated wetlands and are therefore not jurisdictional and not regulated under Section 404 of the Clean Water Act.