

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): March 30, 2020

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Bentz Tile, MVP-2019-02877-DAS

C. PROJECT LOCATION AND BACKGROUND INFORMATION: This AJD considers wetlands identified as 3, 5, 6, 7, 8, 11, 12, 13, 14, 15, and 16 within 129.8 acre property located in Section 8, Township 104 North, Range 30 West, Martin County, Minnesota.

State: Minnesota

County/parish/borough: Martin County

City:

Center coordinates of site (lat/long in degree decimal format): Lat. 43.822265° N, Long. -94.45393° W.

Universal Transverse Mercator: X: 383084.517, Y: 4853159.830574, Zone 15

Name of nearest waterbody: Perch Creek

Name of watershed or Hydrologic Unit Code (HUC): Watonwan River Watershed (HUC 07020010)

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 4, 2020

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 area includes Wetland 3 (0.12 acre), 5 (0.36 acre), 6 (3.64 acres), 7 (0.87 acre), 8 (3.20 acres), 11 (1.12 acres), 12 (1.31 acres), 13 (0.43 acres), 14 (0.36 acres), 15 (1.07 acres), and 16 (3.20 acres) that have been determined to be prior converted (PC) by the U. S. Department of Agriculture on July 8, 1994 and again on September 4, 2018; therefore, the areas designated to be PC are determined to not be jurisdictional under the CWA. A portion of Wetland 8 has been determined to be prior converted, however an area measuring approximately 0.64 acre has been designated as wetland (W). Based upon a review of aerial photographs, topographic maps, NWI maps, and the Martin County Soil Survey, Wetland 8 was determined to be hydrologically isolated with no surface water connection to a water of the United States. According to the Martin County Soil Survey, Wetland 8 is mapped as Canisteo-Glencoe complex that is characterised as deep, poorly drained, moderately permeable depressional soils on glacial till plains. The USGS Topographic Map and 2-foot LiDAR Contours show Wetland 8 to be in a depressional area with no evidence of a surface water connection to downstream waters. The remaining portion of Wetland 8 is identified as broad-leaved deciduous forest and emergent farmed wetland that is temporarily flooded. In addition Wetland 8 is non-navigable, and totally contained within private property. Wetland 8 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; does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and is not known to be used for industrial purposes by industries in interstate commerce. Wetland 8 was determined to not be jurisdictional under the CWA because the wetland lacks links to interstate commerce sufficient to serve as a basis for jurisdiction.**

¹ Supporting documentation is presented in Section III.F.

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): **Wetland 3, 5, 6, 7, 11, 12, 13, 14, 15, and 16 have been determined to be prior converted (PC) by the U. S. Department of Agriculture; therefore, they are determined to not be jurisdictional under the CWA.**

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 8 - 0.64** 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: **Bentz Wetland Services Type & Boundary/Exemption/AJD Application dated November 20, 2019.**
 - 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: **USGS 1:24K Quad Name Truman**
 - USDA Natural Resources Conservation Service Soil Survey. Citation: **Martin County Soil Survey**
 - National wetlands inventory map(s). Cite name: **1:24K Quad Name Truman**
 - 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 Imagery 1980-2000, 2003, 2006, 2008-2010, 2013, 2015, and 2017.**
- 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: