SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 05/14/2020

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: 2019-02540-MMJ; Pineview-Oakview Road Reconstruction

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: MN
County/parish/borough: Hennepin
City: Dayton

Center coordinates of site (lat/long in degree decimal format): Lat. 45.192556° N, Long. -93.441981° W

Universal Transverse Mercator: X:465282.040467, Y:5004436.270997

Name of nearest waterbody: Diamond Creek

Name of watershed or Hydrologic Unit Code (HUC): 07010206

☐ 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: April 10, 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): ☒

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: The review area includes an approximately 8,300 linear foot project corridor. The review area contains five wetlands. This AJD is only for the four wetlands labeled as Wetland 1, 3, 4 & 5 as shown on enclosed figures labeled 2019-02540-MMJ AJD Figures 1-11. Wetlands 1, 3, 4 & 5 are seasonally flooded and wet meadow type wetland basins located adjacent to an existing roadway. These wetlands are isolated basins with no direct hydrologic connections to downstream waters. This was confirmed by reviewing the wetland delineation that was completed for the project, NWI and soils maps, as well as historic and current aerial and lidar imagery. Wetland 1 is the only basin that is identified as a wetland on the NWI and soils map, and both sources indicate that the wetland is isolated. Wetlands 3 and 4 formed recently on the landscape, likely due to adjacent residential development construction activities. Wetland 5 is a small isolated wetland abutting an intersection that likely formed due to road construction activities.

The waterbodies described above 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; they do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and they are not known to be used for industrial purposes for interstate or foreign commerce. Furthermore, these wetlands are hydrologically isolated with no surface or shallow subsurface connections to a water of the United States and do not have an ecological interconnection due to existing disturbance and agricultural activities on the property. The waterbodies have been determined to be non-jurisdictional under the Clean Water Act because the wetlands lack connections and/or relationships 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 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: 0.35 acre, Wetland 3: 0.20 Wetland 4: 0.05 Wetland 5: 0.10 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: Pineview-Oakview delineation report submitted by Wenck and Associates dated October 2019 revised December 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: 1:24k - Anoka
   - USDA Natural Resources Conservation Service Soil Survey. Citation: Hennepin County
   - National wetlands inventory map(s). Cite name:
   - State/Local wetland inventory map(s):
   - FEMA/FIRM maps:
   - 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
   - Previous determination(s). File no. and date of response letter:
   - Applicable/supporting case law:
   - Applicable/supporting scientific literature:
   - Other information (please specify):