Regulatory Program

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in the Approved Jurisdictional Determination Form User Manual.

SECTION I: BACKGROUND INFORMATION

A. COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): October 1, 2015

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): MVR-2015-1055

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State:Iowa County/parish/borough: Scott City: Davenport

Center coordinates of site (lat/long in degree decimal format): Lat. 41.582384, Long. -90.389040.

Map(s)/diagram(s) of review area (including map identifying single point of entry (SPOE) watershed and/or potential jurisdictional areas where applicable) is/are: ☒ attached ☐ in report/map titled .

☐ Other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different JD form. List JD form ID numbers (e.g., HQ-2015-00001-SMJ-1): .

D. REVIEW PERFORMED FOR SITE EVALUATION:

☒ Office (Desk) Determination Only. Date: October 1, 2015.

☐ Office (Desk) and Field Determination. Office/Desk Date(s): Field Date(s): .

SECTION II: DATA SOURCES

Check all that were used to aid in the determination and attach data/maps to this JD form and/or references/citations in the administrative record, as appropriate.

☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant. Title/Date: Joint Application for Site Drainage Improvement at Miles 180.97 and 181.2 of Davenport Subdivision.

☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- ☐ Office concurs with data sheets/delineation report.. Title/Date: .
- ☐ Office does not concur with data sheets/delineation report. Summarize rationale and include information on revised data sheets/delineation report that this JD form has relied upon: . Revised Title/Date: .

☐ Data sheets prepared by the Corps. Title/Date: .

☐ Corps navigable waters study. Title/Date: .

☐ CorpsMap ORM map layers. Title/Date: .

☐ USGS Hydrologic Atlas. Title/Date: .

☐ USGS, NHD, or WBD data/maps. Title/Date: .

☐ USGS 8, 10 and/or 12 digit HUC maps. HUC number: .

☒ USGS maps. Scale & quad name and date: USGS Google Earth Topographic Map Layer.

☐ USDA NRCS Soil Survey. Citation: .

☐ USFWS National Wetlands Inventory maps. Citation: .

☐ State/Local wetland inventory maps. Citation: .

☐ FEMA/FIRM maps. Citation: .

☒ Photographs: ☒ Aerial. Citation: Google Earth 2014, ISU GIS. or ☐ Other. Citation: .

☐ LiDAR data/maps. Citation: .

☐ Previous determinations. File no. and date of jurisdictional determination letter:

☐ Applicable/supporting case law: .

☐ Applicable/supporting scientific literature: .

☒ Other information (please specify): Google Earth Images.

SECTION III: SUMMARY OF FINDINGS

Complete Spreadsheet Tab "Aquatic Resources" – Required for All AJDs

A. RIVERS AND HARBORS ACT (RHA) SECTION 10 DETERMINATION OF JURISDICTION:

☐ "*navigable waters of the U.S.*" within RHA jurisdiction (as defined by 33 CFR part 329) in the review area.

- **List water(s) and area/length within review area – Required:**

NOTE: If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Section 10 navigable waters list, DO NOT USE THIS FORM TO MAKE THE DETERMINATION. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Section 10 RHA navigability determination.

B. CLEAN WATER ACT (CWA) SECTION 404 DETERMINATION OF JURISDICTION: "*waters of the U.S.*" within CWA jurisdiction (as defined by 33 CFR part 328.3) in the review area. **Check all that apply.**

☐ (a)(1): All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (Traditional Navigable Waters or TNW).

- **Complete Spreadsheet Tab "(a)(1)" - Required**

☐ This JD includes a case-specific (a)(1) TNW (Section 404 navigable-in-fact) determination on a water that has not previously been designated as such. Documentation required for this case-specific (a)(1) TNW determination is attached.

☐ (a)(2): All interstate waters, including interstate wetlands.

- **Complete Spreadsheet Tab "(a)(2)" - Required**

☐ (a)(3): The territorial seas.

- **Complete Spreadsheet Tab "(a)(3)" - Required**

☐ (a)(4): All impoundments of waters otherwise identified as waters of the U.S. under 33 CFR part 328.3.

- **Complete Spreadsheet Tab "(a)(4)" - Required**

☐ (a)(5): All tributaries, as defined in 33 CFR part 328.3, of waters identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Spreadsheet Tab "(a)(5)" - Required**

☐ (a)(6): All waters adjacent to a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters.

- **Complete Spreadsheet Tab "(a)(6)" - Required**

☐ Bordering/Contiguous.

Neighboring:

☐ (c)(2)(i): All waters located within 100 feet of the ordinary high water mark (OHWM) of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3.

☐ (c)(2)(ii): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 and not more than 1,500 feet of the OHWM of such water.

☐ (c)(2)(iii): All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (a)(1) or (a)(3) of 33 CFR part 328.3, and all waters within 1,500 feet of the OHWM of the Great Lakes.

☐ (a)(7): All waters identified in 33 CFR 328.3(a)(7)(i)-(v) where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Spreadsheet Tab "(a)(7)" for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(7) waters identified in the similarly situated analysis. – Required**

☐ Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus analysis.

☐ (a)(8): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3 not covered by (c)(2)(ii) above and all waters located within 4,000 feet of the high tide line or OHWM of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Spreadsheet Tab "(a)(8)" for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(8) waters identified in the similarly situated analysis. – Required**

☐ Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus analysis.

C. NON-WATERS OF THE U.S. FINDINGS:

Check all that apply.

☐ The review area is comprised entirely of dry land.

☐ Potential-(a)(7) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Spreadsheet Tab "NonWaters-No SigNex". Attach a map delineating the SPOE watershed boundary with potential (a)(7) waters identified in the similarly situated analysis. – Required**

☐ Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus analysis.

☐ Potential-(a)(8) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Spreadsheet Tab "NonWaters-No SigNex". Attach a map delineating the SPOE watershed boundary with potential (a)(8) waters identified in the similarly situated analysis. – Required**

☐ Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus analysis.

☒ Excluded Waters (Non-Waters of U.S.), even where they otherwise meet the terms of paragraphs (a)(4)-(a)(8):

- **Complete Spreadsheet Tab "NonWaters-Excluded" - Required**

☐ (b)(1): Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA.

☐ (b)(2): Prior converted cropland.

☒ (b)(3)(i): Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

☐ (b)(3)(ii): Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

☐ (b)(3)(iii): Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1)-(a)(3).

☐ (b)(4)(i): Artificially irrigated areas that would revert to dry land should application of water to that area cease.

☐ (b)(4)(ii): Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds.

☐ (b)(4)(iii): Artificial reflecting pools or swimming pools created in dry land.[1]

☐ (b)(4)(iv): Small ornamental waters created in dry land.[1]

☐ (b)(4)(v): Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water.

☐ (b)(4)(vi): Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways.[1]

☐ (b)(4)(vii): Puddles.[1]

☐ (b)(5): Groundwater, including groundwater drained through subsurface drainage systems.[1]

☐ (b)(6): Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.[1]

☐ (b)(7): Wastewater recycling structures created in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

☐ Other non-jurisdictional waters/features within review area that do not meet the definitions in 33 CFR 328.3 of (a)(1)-(a)(8) waters and are not excluded waters identified in (b)(1)-(b)(7).

- **Complete Spreadsheet Tab "NonWaters-Other" - Required**

D. ADDITIONAL COMMENTS TO SUPPORT JD:

[1] In many cases these excluded features will not be specifically identified on the approved JD form, unless specifically requested. Corps Districts may, in case-by-case instances, choose to identify some or all of these features within the review area.

Aquatic Resources

Waters_Name	Cowardin_Code	HGM_Code	Meas_Type	Amount	Units	Waters_Type	Latitude	Longitude	Local_Waterway
e.g., Wetland A									
Ditch 1			Linear	5,431	FOOT	EXCLDB3I	41.582384	-90.38904	Unnamed

EXCLUDED WATERS OR FEATURES		
(b) Excluded Feature/Water Name	**(b) Exclusion Criteria**	**Rationale for (b) Excluded feature and Additional Discussion.**
Waters_Name		
Ditch 1	(b)(3)(i) Ditch Type A-Ephemeral ditch that is not a relocated tributary or excavated in a tributary	Review of topographic maps and aerial photography (to 1930) indicates that the ditch was constructed in uplands at the toe of slope of the railroad grade to remove accumulated water resulting from overland flow after precipitation events. No information indicates that the ditch is a relocated tributary. The ditch moves water to storm pipes that discharge underneath the railroad grade and into the Mississippi River. The ditch does have hydrophytic vegetation growing within it at certain locations. The Clean Water Rule provides that these excluded waters/features are not WoUS even where they otherwise meet the terms of 33 CFR 328.3(a)(4)-(a)(8) categories. Thus, developing wetland characteristics alone would not make such waters/features jurisdictional.

2014
Sandstone Ct
195th St
Pebble Creek Dr
Approximate Ditch Location
SW 35th St
Woodland Ln
Sycamore Dr
Valley Dr
67
S Cody Rd
Great River Rd
SE 182nd St
Lighth
Great River Trail
3000 ft
N
Google earth

1950

1930

Golf Course
650
650
570
Le Claire Canal
Mile
494
IOWA
ILLINOIS
Lock and Dam
No 14
ELEVATION
N
2000 ft
Google earth

Mile 180.97 and Mile 181.2 Track Movement Photos

Project No.: 1503990
Date: June 2015
Client: Canadian Pacific Railway, Ltd.

GEI

Photo No. 3 Standing surface water near MP 181.0, June 07, 2015 [East]

Photo No. 4 Standing surface water by MP 181, June 08, 2015 [East]