

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): 25 June 2012

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Omaha District – NDDOT - NWO-2012-1434-BIS

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Isolated wetlands. Central Legal Description:

T-159-N; R-100-W; Sec. 5, 8,16,17,20, 21 , 28 & 29
T-160-N; R-100-W; Sec. 4, 5, 8, 9, 16, 17,20,21,28, 29 & 32
T-161-N; R-100-W; Sec. 1,2, 11, 12, 13, 14,23,24,25,26,35 & 36
T-162-N; R-100-W; Sec. 1,2, 11 , 12, 13, 14, 23,24,25,26,35 & 36
T-163-N; R-100-W; Sec. 35 & 36

Wetland No.:	Wetland Lon:	Wetland Lat:	Wetland Size (Within project review area):
1	-103.624702	48.572982	0.04
2	-103.623478	48.574273	0.01
3	-103.624714	48.575592	0.21
4	-103.623838	48.577579	0.64
5	-103.623823	48.581078	0.16
6	-103.629466	48.614544	0.06
7	-103.629477	48.615414	1.16
8	-103.6262957	48.625359	0.7
9	-103.629501	48.629608	0.26
10	-103.629448	48.631058	0.13
11	-103.62858	48.638065	0.11
12	-103.627845	48.640873	0.37
13	-103.627557	48.645223	0.94
14	-103.627395	48.651102	2.86
15	-103.62566	48.659972	0.17
16	-103.625374	48.660692	0.29
17	-103.623825	48.666234	0.31
18	-103.624694	48.666869	0.23
19	-103.62378	48.670559	0.19
20	-103.623986	48.678094	0.33
21	-103.624041	48.682153	0.13
22	-103.624041	48.682153	0.13
23	-103.624114	48.69924	0.99
24	-103.623966	48.700056	0.22
25	-103.624639	48.700626	0.54
26	-103.624639	48.704761	0.38
27	-103.624117	48.708522	0.54
28	-103.6241	48.708522	0.7
29	-103.625384	48.721561	2.64
30	-103.623458	48.725031	0.22
31	-103.620731	48.725031	0.2
32	-103.619329	48.728425	0.24
33	-103.618308	48.730394	0.13
34	-103.617553	48.730779	0.06

Wetland No.:	Wetland Lon:	Wetland Lat:	Wetland Size (Within project review area):
35	-103.616832	48.733423	0.44
36	-103.618308	48.741439	2.59
37	-103.618355	48.744903	0.71
38	-103.618741	48.744896	0.25
39	-103.618272	48.748224	1.15
40	-103.618821	48.74927	1.09
41	-103.618305	48.753755	0.28
42	-103.618894	48.754015	0.09
43	-103.618168	48.759853	0.67
44	-103.618189	48.764836	2.44
45	-103.618337	48.766357	0.32
46	-103.618886	48.766662	0.45
47	-103.618275	48.767006	0.51
48	-103.618383	48.770775	7.15
49	-103.618154	48.776904	0.09
50	-103.618655	48.79072	0.02
51	-103.618897	48.794845	0.3
52	-103.617868	48.796392	0.04
53	-103.619086	48.79782	0.21
54	-103.618322	48.80043	0.01
55	-103.618254	48.802072	1.89
56	-103.619028	48.803583	0.09
57	-103.618853	48.806405	0.06
58	-103.618141	48.806504	0.12
59	-103.618165	48.808619	1.19
60	-103.618809	48.811027	0.51
61	-103.618334	48.811084	0.04
62	-103.61889	48.816032	0.61
63	-103.618175	48.817517	0.4
64	-103.619169	48.822797	0.09
65	-103.618932	48.824631	0.17
66	-103.61819	48.825915	0.74
67	-103.618227	48.837323	0.37
68	-103.618852	48.837623	0.52
69	-103.618181	48.839825	0.35
70	-103.619286	48.843502	0.06
71	-103.61834	48.84881	0.01
72	-103.618312	48.851284	0.03
73	-103.618219	48.852759	0.75
74	-103.618733	48.858755	0.05
75	-103.61814	48.861575	1.15
76	-103.61815	48.861575	0.16
77	-103.618884	48.863592	0.39

Wetland No.:	Wetland Lon:	Wetland Lat:	Wetland Size (Within project review area):
78	-103.618043	48.869226	1.02
79	-103.618947	48.870846	0.58
80	-103.619056	48.875039	0.05
81	-103.619198	48.877102	0.15
82	-103.618476	48.881321	7.04
83	-103.618293	48.887302	0.2
84	-103.619025	48.877105	0.19
85	-103.618318	48.892814	0.02
86	-103.618901	48.893411	0.01
87	-103.61825	48.894318	0.35
88	-103.618938	48.896551	0.41
89	-103.619186	48.8994	0.06
90	-103.618292	48.903514	0.24
91	-103.617815	48.908204	0.01

State: ND County/parish/borough: Williams and Divide City: N/A
Center coordinates of site (lat/long in degree decimal format): Lat. 48.79072° N, Long. -103.618655° W.
Universal Transverse Mercator: 14

Name of nearest waterbody: Scorio Creek

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: N/A

Name of watershed or Hydrologic Unit Code (HUC): Little Muddy (10110102)

- 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: 08 June 2012
- 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. [Required]

- Waters subject to the ebb and flow of the tide.
 - Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- Explain: .

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. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
- Non-RPWs that flow directly or indirectly into TNWs
- Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least “seasonally” (e.g., typically 3 months).

- Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- Impoundments of jurisdictional waters
- Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: linear feet: width (ft) and/or acres.
 Wetlands: acres.

c. Limits (boundaries) of jurisdiction based on: Pick List

Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):³

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: *The JD review area contains isolated wetlands. It is determined that the wetlands do not exhibit any discernable surface outlet to WOUS. These wetlands: 1) are not used by interstate or foreign travelers for recreation purposes; 2) do not support fish or shellfish that could be taken and sold in interstate or foreign commerce; and 3) are not used for industrial purposes by industries in interstate commerce..*

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):⁴ 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): .

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: **55.18** 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.

³ Supporting documentation is presented in Section III.F.

⁴ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

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: .
- 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 : 24,000 – [Stady](#)
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- 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)
- Photographs: Aerial (Name & Date): [USDA 2010](#).
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: See Attached Wetland Location Map.