

**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):** November 29, 2022

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** Groh Farm Subdivision- Phase II, MVP-2021-00965-RMH

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:** This AJD considers wetlands identified as Wetlands B, C, D, E and F within the property located in Section 14, Township 108 North, Range 26 West.

State: Minnesota

County/parish/borough: Blue Earth County

City: Mankato

Center coordinates of site (lat/long in degree decimal format): Lat. 44.162934° N, Long. -93.923492° W.

Universal Transverse Mercator: X:426162.653345, Y: 4890384.382289, Zone 15

Name of nearest waterbody: Le Sueur River

Name of watershed or Hydrologic Unit Code (HUC): Upper Mississippi Region Watershed (HUC 07020011)

☒ 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: November 17, 2022

☐ 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):<sup>1</sup>**

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **The review area for this jurisdictional determination is the extent of Wetlands B, C, D, E and F identified as Type 1 - Seasonally Flooded Basins within the review area. The wetland delineation report states that the wetlands are located within low-lying pothole areas throughout an active farm field. Additionally, no surface inlets or outlets were observed by the wetland delineator during the on-site delineation. Based upon a review of aerial photographs, United States Geographical Society (USGS) 1:24K Quad and its associated National Hydrography Dataset (NHD), National Wetland Inventory (NWI) maps, topography data, and the materials submitted, the wetlands were determined to be hydrologically isolated with no surface water connection to a water of the United States (WoUS). An unnamed tributary, identified by the USGS NHD as intermittent, is located approximately 1,300 feet south of the wetlands but a review of imagery did not show any evidence of a surface water connection. A possible downstream connection to Wetland E was investigated but failed to illustrate a connection. An elevation profile was created using 2-foot Lidar contours to rule out a possible downstream connection. The profile indicates an increase in elevation as you travel to the southeast of wetland E, thus supporting that the wetland is isolated. The review area is not within a 100-year floodplain. The wetlands are surrounded by upland, and have no swales, ditches, pipes, or other means that would provide a surface or subsurface connection to a WOUS. We have determined that Wetlands: B, C, D, E and F are isolated depressions that are hydrologically separated from other aquatic resources. The surrounding land use comprised of agricultural and transportation uses does not provide cover or habitat between the wetlands and other aquatic resources.**

<sup>1</sup> Supporting documentation is presented in Section III.F.

The wetlands do not support links to interstate or foreign commerce because it is 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. The wetlands do not have an ecological connection to a WoUS, therefore, the Corps has determined that Wetlands: B, C, D, E and F are not regulated by the Corps under Section 404 of the Clean Water Act.

### **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):

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 B: 0.77 ac., Wetland C: 0.88 ac., Wetland D: 0.06 ac., Wetland E: 1.24 ac, Wetland F: 1.98 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: Groh Farm Subdivision- Phase II Replacement Plan and AJD Request Application packet, submitted by Bolton & Menk, Inc., dated October 25, 2022 and Level 2 Wetland Delineation Report, submitted by ISG Inc., dated June 18, 2021
- ☒ 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: Mankato East
- ☐ 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 Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): MnDNR: 1939, 1949, 1950, 1964 ESRI: 2019, USGS: 1991, NHD, MnTopo 2012, FSA: 2002, 2003, 2005, 2008, 2009, 2013, 2015, 2017, 2019 Google Earth: 2015 and 2019
- or ☒ Other (Name & Date): site photos taken on April 29, 2021, submitted with report
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): Elevation profile created using 2-foot LIDAR contours accessed on site <http://arcgis.dnr.state.mn.us/maps/mntopo/>

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**