



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 6/10/2021

ORM Number: MVP-2020-02466-CCK

Associated JDs: N/A

Review Area Location¹: State/Territory: Minnesota City: New Ulm County/Parish/Borough: Brown

Center Coordinates of Review Area: Latitude 44.3430034 Longitude -94.49194342 W

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- ☐ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³				
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴ The review area for this determination is limited to the delineated boundaries of 2 wetland areas labeled as Wetland 2 and Wetland 3, on the attached figures labeled 2020-02466-CCK, Brown County CSAH 12, Page 2.				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland 2	0.38	acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Wetland 2 is an isolated stormwater pond located southeast of the intersection of Boundary Street and Hoffman Road. A review of the data sources in Section III.A indicates that the wetland is geographically isolated and physically separated from potential downstream waters.
Wetland 3	0.10	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 3 is an isolated wetland located northwest of the intersection of CSAH 29 and Boundary Street. A review of the data sources in Section III.A indicates that the wetland is geographically isolated and physically separated from potential downstream waters.
N/A.	N/A.	acre(s)	N/A.	N/A.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☒ Information submitted by, or on behalf of, the applicant/consultant: [USACE Permit Application for County Road 13 Expansion Project](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).

☒ Photographs: [Aerial: Google Earth Imagery, \(1938-2015\)](#)

☐ Corps site visit(s) conducted on: [Date\(s\)](#).

☐ Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\)](#).

☐ Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

☐ USDA NRCS Soil Survey: <http://websoilsurvey.nrcs.usda.gov/>

☒ USFWS NWI maps: [USFWS NWI of MN, 1974-1978](#)

☒ USGS topographic maps: [1:24k USGS New Ulm Quadrangle](#)

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.

C. Additional comments to support AJD: The review area for this determination is limited to the delineated boundaries of 2 wetland areas labeled as Wetland 2 and Wetland 3, on the attached figures labeled 2020-02246-CCK, Brown County CSAH 13, Page 2. The total area of non-jurisdictional waters within the review area is approximately 0.48 acre of wetlands.

All of the wetlands within the review area meet the definition of “wetlands” under paragraph (c)(16) and are not (a)(4) waters because they do not meet the definition of “adjacent wetlands” under paragraph (c)(1).

Wetland 2 is an isolated stormwater pond constructed in uplands to convey runoff from the adjacent roadway and residential neighborhood. Historic aerial imagery shows the pond was constructed sometime between 2004 and 2006. The aerial imagery from 1938 (oldest available) through 2004 indicates that the stormwater pond was not constructed in an (a)(4) water and the pond was located in uplands when constructed. Based on this review, Wetland 2 is not jurisdictional under the NWPR because it meets the requirements of the exclusion for (b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.

Wetland 3 is an isolated depressional wetland surrounded by uplands. A review of the data sources in Section III.A indicates that this wetland is geographically isolated and physically separated from potential downstream waters. Topography lines, LiDAR contours and color changes on USGS topo maps demonstrate this wetland area is surrounded by uplands. Wetland 3 is bounded by Boundary Street to the northeast, a parking lot to the northwest, commercial property to the southeast, and CSAH 29 to the southwest. Aerial photos and provided figures did not indicate the presence of culverts under the parallel roadways to provide direct hydrologic connection to downstream (a)(1)-(a)(3) waters.

Wetland 3 does not abut any downstream (a)(1)-(a)(3) waters and does not appear to be inundated by flooding from (a)(1)-(a)(3) waters. Based on this review, Wetland 3 is not jurisdictional under the Navigable Waters Protection Rule (NWPR) because it meets the requirements of the exclusion for non-adjacent wetlands under paragraph (b)(1). This assessed wetland does not abut jurisdictional waters, is not inundated by flooding from a traditional navigable water, or tributary, or from a jurisdictional lake, pond, or impoundment, and is not physically separated from a jurisdictional water by only a natural feature or artificial structure that allows for a direct hydrologic surface connection. This was confirmed by reviewing the data sources in Section III.A.

This was confirmed by reviewing aerial photography, national hydrography data, and topographic data. Based on this review, the assessed ditches are not jurisdictional under the Navigable Waters Protection



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Rule because they meet the requirements of the exclusion for ditches under paragraph (b)(5).