

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): March 8, 2022

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2022-00141-DDP (SAP 007-612-023)
(Blue Earth, County of / SAP 007-612-023 / CSAH 12)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: MN County/parish/borough: Blue Earth City: Lime Township
Center coordinates of site (lat/long in degree decimal format): Lat. 44.221574° N, Long. -93.929025° E.
Universal Transverse Mercator:

Name of nearest waterbody: Shanaska Creek

Name of watershed or Hydrologic Unit Code (HUC): (07020007) Upper Mississippi Region

☒ 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: February 16, 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):¹

☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **The SAP 007-612-023 / CSAH 12 review area contains seven aquatic features for review: w-20013a-020, w-20013a-023, w-20013a-24, w-20013a-25, w-20013a-28, and w-20013a-29. The majority of the review area consists of agricultural land use. Based on an analysis of multiple years of aerial photography, topographic mapping, soil survey mapping, the MNR June 1, 2020 Delineation Report and the January 2022, Bolton and Menk TH12 AJD Report, the Corps has determined that the aforementioned aquatic features are not jurisdictional.**

W-20013a-020 is found at the intersection of CSAH 12 and 232nd Street. W-20013a-020 is best described as a stormwater drainage ditch receiving overland flow from the north along CSAH 12. No wetlands are mapped on the site and a review of NRCS soils data shows that this feature is mapped in a Lester loam, with a hydric soil rating of 10%. In addition, historical imagery shows no signs of wet signatures in the vicinity of W-20013a-020 and indicates that W-20013a-020 was within a manicured lawn as part of a homestead/schoolhouse. In accordance with the December 2nd, 2008, Rapanos guidance linear ditch features that do not have relatively permanent flow, are constructed in uplands, and drain only uplands are generally not considered waters of the United States.

W-20013a-023 is found on the west side of the road at the intersection of 238th Street and CSAH 12. W-20013a-023 is best described as a stormwater drainage ditch receiving overland flow from the north along CSAH 12. No wetlands are mapped on the site and a review of NRCS soils data shows that this feature is mapped in a Lester loam, with a hydric soil rating of 10%. In addition, historical imagery shows no signs of wet signatures in the vicinity of W-20013a-023. In accordance with the December 2nd, 2008, Rapanos guidance linear ditch features that do not have relatively permanent flow, are constructed in uplands, and drain only uplands are generally not considered waters of the United States.

¹ Supporting documentation is presented in Section III.F.

W-20013a-24 is found on the east side of the road at the intersection of 240th Street and CSAH 12. W-20013a-24 is best described as a stormwater drainage ditch receiving overland flow from the north along CSAH 12. No wetlands are mapped on the site and a review of NRCS soils data shows that this feature is mapped in a Le Sueur loam, with a hydric soil rating of 15%. In addition, historical imagery shows no signs of wet signatures in the vicinity of W-20013a-24. In accordance with the December 2nd, 2008, Rapanos guidance linear ditch features that do not have relatively permanent flow, are constructed in uplands, and drain only uplands are generally not considered waters of the United States.

W-20013a-25 is found on the east side of the road at the intersection of TH 12 and CSAH 2. It is receiving overland flow from the east, and south along CSAH 12. Although it is mapped within Webster clay loam, with a hydric soil rating of 90%, Historical imagery (1937 & 1950) indicates that this intersection was once uplands having a separated right turn lane at the location of the wetland. The turn lane was removed prior to 1991 leaving an upland constructed ditch. In accordance with the December 2nd, 2008, Rapanos guidance linear ditch features that do not have relatively permanent flow, are constructed in uplands, and drain only uplands are generally not considered waters of the United States.

W-20013a-28 and W-20013a-29 are found on the west side of the road at the intersection of TH 12 and CSAH 2. They receive overland flow from the east, and south along CSAH 12. Although they are mapped within Webster clay loam, with a hydric soil rating of 90%, Historical imagery (1937, 1950, 1991 & 2021) does not show any indication that W-20013a-28 and W-20013a-29 were constructed in wetlands. Aerial imagery shows no wetland signatures in the vicinity therefor W-20013a-28 and W-20013a-29 were likely created during the initial construction of TH 12 and CSAH 2. In accordance with the December 2nd, 2008, Rapanos guidance linear ditch features that do not have relatively permanent flow, are constructed in uplands, and drain only uplands are generally not considered waters of the United States.

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): **See Section II.B.2.**

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: 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: **TH12 Bolton and Menk AJD Report and June 1, 2020 MNR Delineation Report**

☒ 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 Quad Name: Mankato East**

☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Blue Earth County Soil Survey**

☒ National wetlands inventory map(s). Cite name: **CorpMaps layer viewed February 17, 2022**

☐ State/Local wetland inventory map(s):

☐ FEMA/FIRM maps:

☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

☒ Photographs: ☒ Aerial (Name & Date): **Aerial and other provided by the applicant and Google Earth 1937, 1950, 1991, 2003, 2004, 2006, 2008, 2009, 2011, 2015 and 2021.**

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: