

**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):** February 14, 2020

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** MVP-2018-00412-KDZ, Sun Prairie Partners-Wetland 2 AJD

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Wisconsin County/parish/borough: Dane City: Sun Prairie

Center coordinates of site (lat/long in degree decimal format): Lat. 43.174924° N, Long. -89.252956° W.

Universal Transverse Mercator: Zone 16

Name of nearest waterbody: Unnamed Tributary to Koshkonong Creek

Name of watershed or Hydrologic Unit Code (HUC):

- ☒ 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 6, 2019  
☐ 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: A wetland delineation report was submitted to the Corps documenting the presence of aquatic resources within approximately 11.88 acres of property located in the City of Sun Prairie, Dane County, Wisconsin. The wetland delineation report included two wetland areas identified as Wetland 1 (0.01 acre) and Wetland 2 (0.36 acre) as shown on the attached figure labeled MVP-2018-00412-KDZ: Page 2 of 5. The requestor has only requested a jurisdictional determination for Wetland 2. The review area for this AJD is limited to Wetland 2 and comprises approximately 0.40 acre.

Wetland 2 is man-made pond that was constructed in an isolated depression surrounded by uplands. According to the NRCS Web Soil Survey (WSS), Wetland 2 is located in Sable silty clay loam (SaA) soil unit which is described as a hydric, poorly drained, soil with 0-2 percent slopes and a depth to water table of approximately 0-12 inches. A review of the Wisconsin Wetland Inventory mapping shows a mapped wetland at the location of Wetland 2. The nearest RPW (unnamed tributary to Koshkonong Creek) is situated approximately 0.4 mile southeast of the review area. No surface water features were identified within or near Wetland 2 which could potentially serve as a surface connection to the unnamed tributary to Koshkonong Creek. Wetland 2 is surrounded by mapped uplands and is not separated from another WOUS by a man-made dike, barrier, or berm.

Based on a review of all available information including the wetland delineation report completed by Heartland Ecological Group Inc., Wisconsin Wetland Inventory Mapping, and aerial imagery dating back to 2003, the Corps has determined that Wetland 2 is a closed depression which does not maintain a surface or shallow subsurface hydrologic connection or ecological connection to the unnamed tributary to Koshkonong Creek or downstream TNW. Wetland 2 has not been utilized for interstate or foreign

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

commerce, and the wetland is not used by interstate or foreign travelers for recreation or other purposes. In addition, Wetland 2 does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce, and is not used for industrial purposes. Therefore, the Corps has determined that Wetland 2 is an isolated wetland 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: 0.36 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: Heartland Ecological Group, Inc.
- ☒ 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 Sun Prairie
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Dane County Web Soil Survey
- ☐ National wetlands inventory map(s). Cite name:
- ☒ State/Local wetland inventory map(s): Wisconsin Wetland Inventory
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is:          (National Geodetic Vertical Datum of 1929)

- ☒ Photographs: ☒ Aerial (Name & Date): 2003, 2005, 2008, 2013, 2015, 2017  
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:**