

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 2, 2021

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2021-01255-MMG

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Wisconsin

County/parish/borough: Racine

City: Dover

Center coordinates of site (lat/long in degree decimal format): Lat. 42.696575° N, Long. -88.110053° E.

Universal Transverse Mercator: Zone 16

Name of nearest waterbody: East Eagle Lake Ditch

Name of watershed or Hydrologic Unit Code (HUC): 0712000607

☒ 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: September 28, 2021

☐ 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: **One wetland (W1) was identified by the wetland delineator. The Wisconsin Wetland Inventory does not include W1. There is no natural berm, bank, dune or similar artificial structure physically separating this wetland from a water of the U.S. The closest mapped water is East Eagle Lake Ditch approximately 0.43 miles to the north at an elevation of approximately 798'. There are also no surface or shallow subsurface connections to Eagle Spring Lake. As described in the delineation report submitted by Heartland Ecological Group, W1 is an isolated, depressional, emergent wetland that lacks both an inlet and an outlet, including no culverts connecting W1 to the other side of STH 75 which borders W1 to the west as there are no other waters of the U.S. on the west side of STH 75 to share hydrology with. Google Earth Street View images confirm there is no roadside ditch connected to W1. The wetland extends just outside of the review area, however, desktop resources combined with the delineation report were sufficient to demonstrate a consistent and well defined boundary. Based on the 1-foot GIS contours layer provided on the delineation map, the boundaries of W1 are situated within the 806' elevation contour. Historic aerial imagery shows a consistent wet signature within this contour basin. Elevations then rise to approximately 810-820' in all directions supporting the transition to uplands and isolated nature of W1. According to the wetland delineation report, vegetation in the wetland was dominated by reed canary grass, hybrid cattail and common spike-rush, while the surrounding uplands are actively farmed and it is surrounded by non-hydric soils, further supporting the transition to uplands. Its degraded nature from the surrounding farming activity, low floristic diversity and distance from any other water of the U.S. makes it so there is no ecological connection to a downstream water. Finally, this aquatic resource does not support a link to interstate or foreign commerce; is not known to be used by interstate or foreign travelers for recreation or other purposes; does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and is not known to be used for industrial purposes by industries in interstate**

¹ Supporting documentation is presented in Section III.F.

commerce. Therefore, the Corps has determined that W-1 is 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: 0.48 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: CSM 3325 Lots 1-2 Wetland Delineation Report dated June 3, 2021 by 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 Union Grove
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Racine County
- ☐ 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): Racine County GIS Aerial Imagery (1994, 1997, 1998, 1999, 2000, 2001, 2002, 2005, 2006, 2007, 2008, 2010, 20123, 2014, 2015, 2017, 2018, 2019, 2020)

or ☒ Other (Name & Date): Ground-level photos in the delineation report by Heartland Ecological Group, Google Earth Streetview photos

☐ 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: