

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): October 7, 2022

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2017-00196-DDP

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Wisconsin

County/parish/borough: Dane County

City: City of Madison

Center coordinates of site (lat/long in degree decimal format): Lat. 43.169050° **Pick List**, Long. -89.309738° **Pick List**.

Universal Transverse Mercator: 16

Name of nearest waterbody:

Name of watershed or Hydrologic Unit Code (HUC): 07090002 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: September 1, 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 Hoepker Road Site review area contains one aquatic feature for review: Wetland Area 1 (5,597 sq. ft.). The majority of the review area consists of agricultural land use. Based on an analysis of multiple years of aerial photography, web soil survey data, USGS topographic mapping, NWI mapping, and the Star Environmental, Inc. December 3, 2021, Hoepker Road Site Wetland Delineation Report, the Corps has determined that the aforementioned aquatic feature is not a water of the United States.

Wetland Area 1 is best described as an isolated drainage swale dominated by a sedge meadow plant community. Wetland Area 1 is surrounded on three sides (E, W, & S) by uplands and is adjacent to Anderson Road to the North. The landscape position of Wetland Area 1 is a concave depression with no soil saturation or water table observed. A culvert connects Wetland Area 1 to an East/West (E/W) roadside drainage ditch running along the North side of Anderson Road. The majority of the E/W ditch was constructed in uplands and based on the topography adjacent to the review area, downgradient flow from the E/W ditch is captured in Wetland Area 1. The nearest mapped watercourse is an Unnamed Tributary (WBIC 805200) to Starkweather Creek/Lake Monona approximately 0.36 miles to the South/Southwest. Neither Wetland Area 1 nor the E/W drainage ditch have a direct hydrologic connection to Unnamed (WBIC 805200). Considering land use and the geographic setting, there is no ecological connection between Wetland Area 1 and a downstream TNW.

Based on this information Wetland Area 1 is isolated with no surface or shallow subsurface hydrologic connection or ecological connection to the nearest RPW or TNW. These waters do not border, neighbor, nor are contiguous with another water of the U.S. (WOTUS). These waters are not separated from other WOTUS by man-made dikes, barriers, or berms. These waters do not support a link to interstate or foreign commerce; They are not known to be used by

¹ Supporting documentation is presented in Section III.F.

interstate or foreign travelers for recreation or other purposes; They 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 commerce. Therefore, the Corps has determined that these waters 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 Area 1 (5,597 sq. ft.) 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: Star Environmental, Inc. December 3, 2021, Hoepker Road Site Wetland 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: Regulatory Viewer layer accessed September 1, 2022
 - ☒ USGS NHD data.
 - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: 1:24K Quad Name: De Forest
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Dane County Soil Survey
- ☒ National wetlands inventory map(s). Cite name: Regulatory Viewer layer accessed September 1, 2022
- ☒ State/Local wetland inventory map(s): Regulatory Viewer layer accessed September 1, 2022
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

☒ Photographs: ☒ Aerial (Name & Date): Regulatory Viewer layer accessed September 1, 2022
or ☒ Other (Name & Date): Star Environmental, Inc. December 3, 2021, Hoepker Road Site

Wetland Delineation Report.

- ☐ 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: