

**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): 02/29/2016**

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Middleton Corporate Center, 2016-0053-KJH**

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

State: Wisconsin County/parish/borough: Dane County City: Middleton

Center coordinates of site (lat/long in degree decimal format): Lat. 43.10863° N, Long. -89.52751° W.

Universal Transverse Mercator:

Name of nearest waterbody: Pheasant Branch

Name of watershed or Hydrologic Unit Code (HUC): Middle Rock (07090002)

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 4, 2016

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: **The review area includes four aquatic features identified as W1 (1.28 acre), W2 (0.11 acre), W3 (0.67 acre) and W4 (0.06 acre). W1 and W4 are narrow stormwater conveyance features which were constructed in uplands. These manmade features primarily function as ditches, conveying stormwater runoff. W2 and W3 are wetlands that formed in depressions created as a result of grading and construction activities within uplands. In accordance with the preamble to the 1986 Corps Regulations (33 CFR Parts 320-330), the Corps does not generally consider the following waters to be waters of the United States; non-tidal drainage ditches excavated on dry land and waterfilled depressions created in dry land incidental to construction activities. Further clarification is provided in the December 2, 2008 Revised Guidance on Clean Water Act Jurisdiction following the Supreme Court Decision in Rapanos v. U.S. and Carabell v. U.S. issued jointly by the Corps and EPA which indicates that ditches excavated wholly in and draining only uplands and that do not carry a relatively permanent flow of water are generally not 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**

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

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): **Refer to Section II.B.2 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:      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.

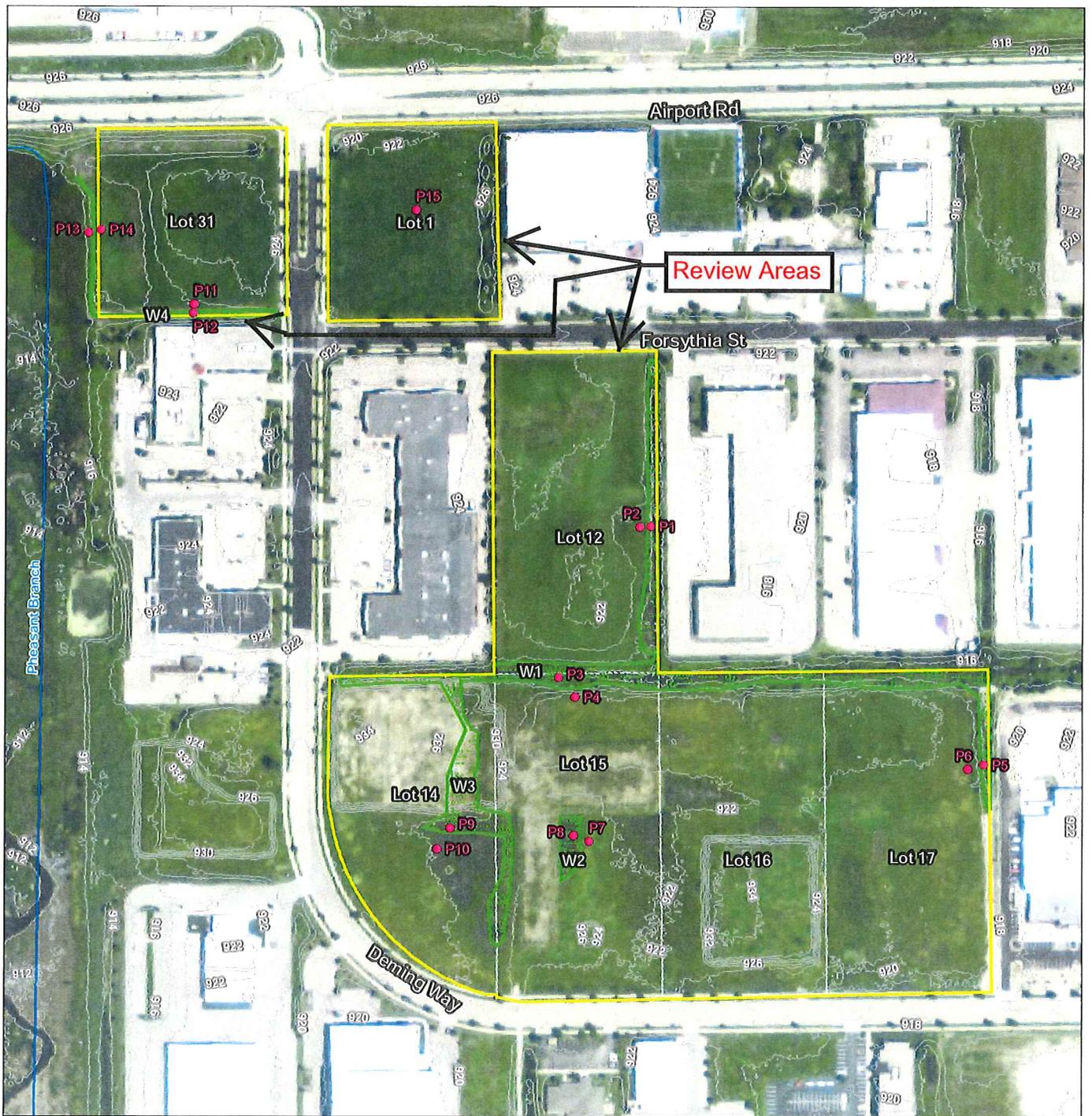
#### **SECTION IV: DATA SOURCES.**

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: **Stantec**
- 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 WI - Middleton**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **NRCS Web Soil Survey**
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s): **WWI**
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is:      (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): **WDNR Surface Water Data Viewer**  
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): **WDNR Exemption Determination dated January 25, 2016**

B. ADDITIONAL COMMENTS TO SUPPORT JD:

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**Legend**

- Approximate Project Boundary
- Sample Point
- Field Delineated Welland Boundary
- Field Delineated Welland
- Lot Boundary
- 2ft Elevation Contour
- ~ DNR 24k Hydrography
- ~ Perennial Stream
- ~ Intermittent Stream
- ~ Waterbody

Figure No. **5**

Title  
**Field Collected Data**

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Client/Project  
T5 Real Estate Solutions, LLC  
Middleton Corporate Center  
Assured Welland Delineation

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Project Location  
107H, R08E, S03  
C. of Middleton,  
Dane Co., WI

19370.0035  
Prepared by LKR on 2015-10-07  
Technical Review by MP on 2015-10-08  
Independent Review by KR on 2015-12-03

**Notes**

1. Coordinate System: NAD 1983 StatePlane Wisconsin South FIPS 4803 Feet
2. Data Sources Include: Stantec, WDOT, WDNR
3. Orthophotography: 2013 IIAF

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