

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): NOV 14 2017

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2017-02700-MLV Sheboygan FedEx Facility

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Wisconsin

County/parish/borough: Sheboygan City: Sheboygan

Center coordinates of site (lat/long in degree decimal format): Lat. 43.7008694733238° N, Long. -87.7528183640925° W.

Universal Transverse Mercator: Zone 16, X: 439340.96, Y: 4838925.28

Name of nearest waterbody: Sheboygan River

Name of watershed or Hydrologic Unit Code (HUC): 04030101

☒ 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: October 16, 2017

☐ 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: **This approved jurisdictional determination is only applicable to the wetland referred to as "Area 4" within the review area shown on the enclosed figure labeled MVP-2017-02700-MLV Page 2 of 2. Area 4 is located approximately southwest of the corner of Gateway Drive and Concord Drive. Area 4 is not mapped on the USFWS National Wetland Inventory. Soils consist of Kewaunee silty clay loam; the soil series description indicates these soils are well-drained with no hydric components. A wetness signature for Area 4 appears on historical aerial imagery in the year 2008. Aerials from year 2005 and 2006 indicate ground disturbance in the vicinity of Area 4 associated with the construction of Concord Drive. It is likely the wetland basin formed incidental to those construction activities. A Wisconsin Department of Natural Resources (WDNR) Waterway is mapped just north of Concord Drive. Saturation is visible in some years in this area but no distinct channel is visible on aerial imagery. Google Street View, Google Earth Imagery, and Bing Maps Bird's Eye imagery indicated no culvert is present that could provide a surface hydrologic connection between Area 4 and the WDNR Waterway. There is one drainage ditch and culvert approximately 445 linear feet west of Area 4 and one culvert and drainageway approximately 530 linear feet northeast of Area 4. It appears the west drainage ditch is piped underneath Concord Drive and outlets at the east culvert and drainageway. Aerial imagery, site photos included in the wetland delineation report, and Lidar data indicate no potential surface connection between the drainage features and Area 4. Area 4 is surrounded by upland, and has no swales, pipes, or other means to connect it to waters of the U.S. The nearest TNW is Lake Michigan, which is approximately 2.5 miles east of the review area. The distance between the nearest TNW and Area 4 precludes a shallow subsurface connection. The area between the TNW and the wetland basin is characterized by agriculture and development and lacks any natural corridor that could support an ecological connection. The wetland does not support a link to interstate or foreign commerce because it is not known to be used by interstate or foreign travelers for recreation or**

¹ Supporting documentation is presented in Section III.F.

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 or foreign commerce. The wetland was determined to be an isolated water. Therefore, Area 4 is not a water of the U.S., and is not jurisdictional under the CWA.

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: Area 4 (0.2 acre) 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: Miller Engineers Scientists
- ☒ 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 Sheboygan South
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Sheboygan County Soil Survey
- ☒ National wetlands inventory map(s). Cite name: USFWS NWI
- ☒ State/Local wetland inventory map(s): WDNR Surface Water Data Viewer
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

- ☒ Photographs: ☒ Aerial (Name & Date): Google Earth 2005, 2006, 2008, 2017; Google Street View 2017; Bing Bird's Eye 2017
or ☒ Other (Name & Date): Site photos provided by consultant, 2017
- ☐ Previous determination(s). File no. and date of response letter:
☐ Applicable/supporting case law:
☐ Applicable/supporting scientific literature:
☒ Other information (please specify): Sheboygan County Lidar (2-foot Contours)

B. ADDITIONAL COMMENTS TO SUPPORT JD:

MILLER
ENGINEERS
SCIENTISTS

5308 S. 12th Street
Sheboygan, WI 53081-8099
Phone 920-458-6164
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FEET

Legend

- Soil Core Location
- Delineated Wetland Boundary
- Subject Property
- 2 ft Contours (Sheboygan County)
- WDNR Waterway
- WDNR Waterbody

FIGURE 4 WETLAND DELINEATION MAP

Proposed FedEx Facility
City of Sheboygan

DATE: 5/11/17

JOB: 20234-002

BY: SMM

CHK: PGP

