

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.

DEC 06 2018

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Markquart Menomonie Dealership, MVP-2018-03361-DJM

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Wisconsin County/parish/borough: Dunn County City: Menomonie
Center coordinates of site (lat/long in degree decimal format): Lat. 44.906032° N, Long. -91.937244° W.
Universal Transverse Mercator: Zone 15

Name of nearest waterbody: Wilson Creek

Name of watershed or Hydrologic Unit Code (HUC): Red Cedar (07050007)

- ☒ 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 11, 2018
☐ 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 review area contains 6 wetlands (A, B, D, E, F, and G) totaling approximately 1.61 acres in size. Wetlands A, B, E, F, and G have been determined to be isolated. This jurisdictional Determination form is for Wetland D only. Wetland D (0.19-acre) formed on the bottom of man-made ditches along United States Highway (USH) 12 in Menomonie, Wisconsin. Information provided within the permit application and the 2016 Wetland Delineation Report indicates that the subject ditch does not have a relatively permanent flow of water and is not a Water 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

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.

¹ Supporting documentation is presented in Section III.F.

- ☐ 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): **The review area identified on the enclosed figures contains six delineated wetlands. Of the 6 wetlands, 5 (Wetland A, B, E, F, and G) have been determined to be isolated. Wetland D for which this form has been prepared formed on the bottom of man-made ditch along United States Highway (USH) 12. While the ditch may hold water during storm events, it does not carry a relatively permanent flow of water and does not drain a water of the United States. The ditch wetland should not be considered a Water of the United States.**

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: 0.19 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: November 3, 2016 Wetland Delineation Report prepared by Bopray Environmental.
- ☒ 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 (Menomonie North)
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation:
- ☐ National wetlands inventory map(s). Cite name:
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): Google Earth Aerial Maps 5-Apr-1992, 31-May-2005, 3-JUN-2006, 22-JUN-2008, 16-MAY-2010, 02-OCT-2011, 21-APR-2014, and 20-APR-2017.
- or ☒ Other (Name & Date): Site photos from the September 2015 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): Wisconsin Wetland Inventory Map

B. ADDITIONAL COMMENTS TO SUPPORT JD: Per the Rapanos guidance, "ditches (including roadside ditches) excavated wholly in and draining only uplands and that do not carry a relatively permanent flow of water are not considered Waters of the United States." Wetland D is not water of the U.S. This wetland formed in upland constructed ditches along U.S. Highway 12 and does not have a relatively permanent flow of water. A review of the NRCS soil survey showed that Wetland D is located entirely within mapped non-hydric soils. Additionally, Wetland D is not mapped on the Wisconsin Wetland Inventory (WWI) Maps. Both the NRCS soil survey and the WWI maps show that no other wetland indicators exist beyond the immediate roadside ditches along USH 12.