

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): December 22, 2015

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: 2015-04381-NTD Southpoint Commerce Park

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Wisconsin** County/parish/borough: **Outagamie** City: **Appleton**

Center coordinates of site (lat/long in degree decimal format): Lat. **44.23262° N**, Long. **-88.35201° W**.

Universal Transverse Mercator: **16**

Name of nearest waterbody: **unnamed tributary to Garners Creek**

Name of watershed or Hydrologic Unit Code (HUC): **Lower Fox (04030204)**

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: **November 25, 2015**

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: **Wetlands 1-19 within the review, excluding Wetland 5, are hydrologically isolated with no surface connection to waters of the United States. The USGS NHD, Wisconsin Wetland Inventory, USGS 24K Quad, and an R.A. Smith National wetland delineation report dated November 12, 2015, support the isolated determination. Wetlands 1 -19, excluding Wetland 5 are not jurisdictional under the CWA because they are hydrologically isolated with no inlets, outlets, or surface connections to waters of the United States, are not used by interstate or foreign travelers, and lack a link to interstate commerce sufficient to serve as a basis for jurisdiction. Each of these wetlands do not appear on the Wisconsin Wetland Inventory maps and are not within a 100-year floodplain. Wetlands 5 and 20 are identified as stormwater drainage ditches in the November 12, 2015 delineation report. These features are manmade ditches that were created in uplands and drain only uplands and are not jurisdictional under the CWA. Based on this information, the Corps has determined that Wetlands 1-20 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

¹ 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): **Wetland 5 (0.063 acre) and Wetland 20 (0.163 acre) are manmade ditches that were created in upland and drain only upland. These features have been deemed non-jurisdictional**

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: **#1 is 0.117 acre, #2 is 0.041 acre, #3 is 0.007 acre, #4 is 0.900 acre, #6 is 0.006 acre, #7 is 0.028 acre, #8 is 0.048 acre, #9 is 0.026 acre, #10 is 0.042 acre, #11 is 0.028acre, #12 is 0.024 acre, #13 is 0.110 acre, #14 is 0.066 acre, #15 is 0.072 acre, #16 is 0.014 acre, #17 is 0.195 acre, #18 is 0.024 acre, and #19 is 0.023 acre.**

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: **R.A. Smith National Delineation Report Dated November 12, 2015.**
- 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-Sherwood**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Outagamie County, Wisconsin**
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s): **Wisconsin Wetland Inventory (SWDV)**
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): **2005, 2010, 2014 provided by R.A. Smith National**
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):

B. ADDITIONAL COMMENTS TO SUPPORT JD:

City of Appleton
Southpoint Commerce Park
City of Appleton
Calumet County, Wisconsin



Figure 1
Wetland Boundary
Map



Map Legend

- Sample Plot
- ▭ Study Area - 84.3 acres
- ▭ Delineated Wetland - 2 acres

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Wetland ID	Area (sqft)
Wetland 1	5,087.1
Wetland 2	1,796.5
Wetland 3	313
Wetland 4	39,200.2
Wetland 5	2,740.1
Wetland 6	256.2
Wetland 7	1,231.9
Wetland 8	2,081.2
Wetland 9	1,151.8
Wetland 10	1,842.2
Wetland 11	1,225.2
Wetland 12	1,059.4
Wetland 13	4,822.6
Wetland 14	2,863
Wetland 15	3,125.1
Wetland 16	612
Wetland 17	8,474.1
Wetland 18	1,034.8
Wetland 19	986.5
Wetland 20	7,122.2
Wetland 21	372.5