

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): February 3, 2016

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Quarry Corners Business Park, 2009-03631-MHK (Stormwater Pond)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **WI** County/parish/borough: **Waukesha** City: **Lisbon**

Center coordinates of site (lat/long in degree decimal format): Lat. **43.10536° N**, Long. **-88.20843° W**.

Universal Transverse Mercator: **16**

Name of nearest waterbody: **Fox River**

Name of watershed or Hydrologic Unit Code (HUC): **Upper Mississippi Region (07120006)**

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 1, 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):¹

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: **The 1.54-acre wetland is a stormwater pond that was constructed in uplands and is not a water of the U.S. This was confirmed by reviewing Waukesha County aerial photos between 1941 to 2000. This determination is in accordance with the preamble to the 1986 Corps Regulations (33 CFR Parts 320-330), which states that the Corps does not generally consider the following to be waters of the U.S., "artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins or rice growing."**

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 stormwater pond is not a water of the U.S. pursuant to the preamble to the Corps 1986 regulations (33 CFR Parts 320-330)**

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: **Metropolitan Engineering Inc. "Quarry Corners Business Park" Site and grading plan, dated 10-3-2008**
- 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-Waukesha**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Waukesha County**
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s): **Wisconsin Wetland Inventory**
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): **Waukesha County GIS Website 1941, 1951, 1963, 1970, 1980, 1990, 2000, 2005, 2007**
 or Other (Name & Date):
- Previous determination(s). File no. and date of response letter: **2009-03631-DJP August 24, 2009**
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD: The August 2009 approved jurisdictional determination for this aquatic resource identified the the stormwater pond as being constructed in uplands and was determined not to be a water of the U.S. This updated determination also concludes that the stormwater pond is not a water of the U.S., as detailed in Section II, B2.

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Review Area in Yellow



Legend

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

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

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Figure No.

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Title

Field Collected Data

Client/Project
 Carity Land Corporation
 Quarry Corners Wetland Delineation

Project Location 193703856
 T8N, R19E, S35 Prepared by KAS on 2015-08-04
 T. of Lisbon, Technical Review by MMP on 2015-08-04
 Waukesha Co., WI Independent Review by JK on 2015-08-19

