

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 7, 2019

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Keith Onsrud Tile
2018-03531-KJH (Isolated)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Wisconsin County/parish/borough: Dane County City: Town of Rutland

Center coordinates of site (lat/long in degree decimal format): Lat. 42.91362° N, Long. -89.27253° W.

Universal Transverse Mercator:

Name of nearest waterbody: Badfish Creek

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: November 29, 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: **This JD is for the Farmed Wetland (FW) portion of Field 5 (1.2 acre) and the Pond (W) portion of Field 6 (1.67 acre). The FW is located within a depression of farm field 5 and the Pond is located within a depression in farm Field 6. The wetland and Pond are not bordering, neighboring or contiguous with another water of the U.S. The land surrounding the Pond is designated as Prior Converted cropland (PC) by the NRCS and is in agricultural production. The land surrounding the FW is designated as Non-Wetland (NW) by the NRCS and is in agricultural production. The FW and Pond do not provide an ecological link to downstream waters, the FW is cropped most years. The isolated FW and the isolated Pond are approximately 1.8 miles from the nearest jurisdictional water of the United States. There is no natural or man-made discrete and/or confined surface water connections between the Pond and the FW with any other jurisdictional water. There are no shallow subsurface connections to downstream waters. There are no culverts or tributaries that provide flow to or from the FW. There is no evidence of surface-water flow to or from the FW. Based on a review of the USGS Quadrangle Sheet, the FW is not located immediately upslope of other jurisdictional waters and based on its landscape position it does not appear to be part of a recognizable hydrologic system. The FW does not cross any state boundary and does not have a use which would associate them with interstate commerce. The FW does not support a link to interstate or foreign commerce because it is not known to be used by interstate travelers for recreation or other purposes; it does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and it is not known to be used for industrial purposes in interstate or foreign commerce. In consideration of the January 2, 2001, United States Supreme Court decision, Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers, we have determined the FW is isolated and non-jurisdictional under Section 404 of the CWA.**

¹ Supporting documentation is presented in Section III.F.

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: 2.87 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: Keith Onsrud
- ☐ 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: Rutland
- ☒ 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):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): Google Earth 2015, 2014, 2010, 2008, 2006, 2005, and 1996
or ☒ Other (Name & Date): Wisconsin Historic Aerial Image Finder dated June 1937
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): NRCS Certified Wetland Map dated November 2, 2018

B. ADDITIONAL COMMENTS TO SUPPORT JD: