

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): November 24, 2015

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: 2015-02707-NTD Meijer GCU W1-W10

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Wisconsin** County/parish/borough: **Outagamie** City: **Appleton (Town of Grand Chute)**

Center coordinates of site (lat/long in degree decimal format): Lat. **44.300509° N**, Long. **-88.417890° W**.

Universal Transverse Mercator: **16**

Name of nearest waterbody: **unnamed tributary to Mud 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: **October 23, 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: **The wetlands within the review (Wetlands 1-10) are hydrologically isolated with no surface connection to waters of the United States. Review of the USGS NHD, Wisconsin Wetland Inventory, USGS 24K Quad, and an Davel Engineering wetland delineation report dated July 30, 2015, support the isolated determination. Wetlands 1 -10 are not jurisdictional under the CWA because they are hydrologically isolated with no surface connection 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. All ten wetlands do not appear on the Wisconsin Wetland Inventory maps and are not within a 100-year floodplain. Additionally, the wetland delineation report states there are no inlets or outlets to these isolated wetland basins. Therefore, the Corps has determined that Wetlands 1-10 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):

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 0.5066 acre, #2 is 0.2981 acre, #3 is 0.0209 acre, #4 is 0.0575 acre, #5 is 0.0087 acre, #6 is 0.0076 acre, #7 is 0.2009 acre, #8 is 0.0145 acre, #9 is 0.0502 acre, and #10 is 0.0034 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: Davel Engineering & Environmental Inc. delineation report dated 7-30-15.
- ☒ 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-Appleton
- ☒ 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
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): 2015 Google Earth and 2010 WROC aerial photos Wisconsin Surface Water Data Viewer
 - 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):

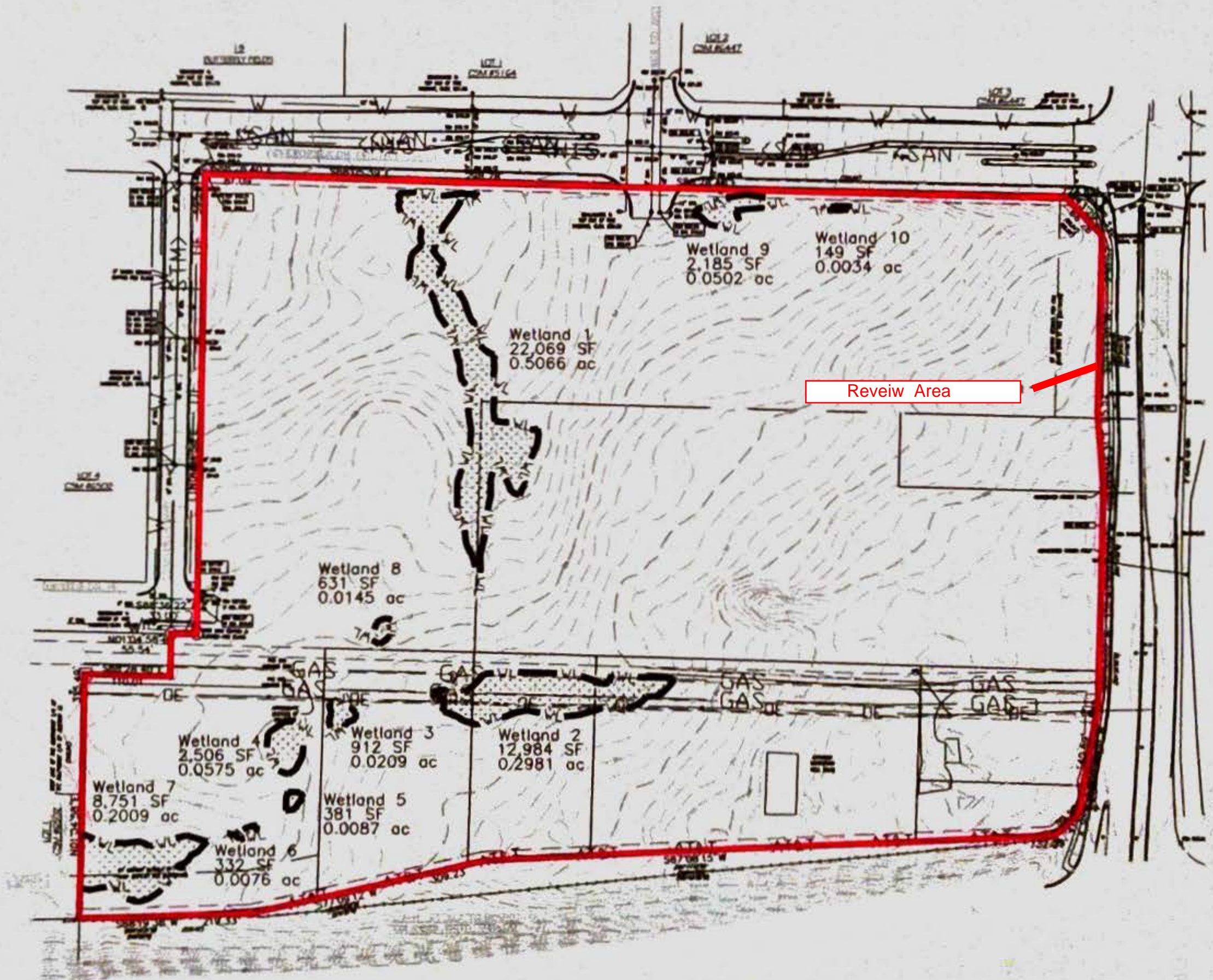
B. ADDITIONAL COMMENTS TO SUPPORT JD:

Wetland Delineation Overview Map

Meijer GCU

Town of Grand Chute, Outagamie County, WI

For: Greenberg-Farrow, LLC



LEGEND

- T## Transect Line Number
- WL — Wetland Line
- Wetlands
- ⊙ Soil Boring
- △ 1 1/4" Rebar Found
- 3/4" Rebar Found
- 1" Iron Pipe Found
- 2" Iron Pipe Found
- ⊗ Chiseled "X" Found



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Civil Engineers and
Land Surveyors

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