

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): SEP 04 2018

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2018-2406-RJH

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Wisconsin County/parish/borough: Fond du Lac City: Fond du Lac
Center coordinates of site (lat/long in degree decimal format): Lat. 43.740163° N, Long. -88.479602° E.
Universal Transverse Mercator: Zone 16

Name of nearest waterbody: East Branch Fond du Lac River

Name of watershed or Hydrologic Unit Code (HUC): 04030203

- ☒ 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: August 14, 2018
☒ Field Determination. Date(s): August 14, 2018

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 22 acre review area contains 2 wetlands: Wetland 1 is 7.712-acre complex with no hydrologic connection to another water of the U.S. and Wetland 2 (0.084 acre) occurs in a depression on the landscape. Regulatory staff conducted an intensive study and site visit on the area to evaluate three (culverts) potential flow paths. While three culverts are located on the perimeter of the site, no evidence of flow was observed and increases in adjacent elevations and presence of uplands preclude any surface or shallow subsurface hydrologic connections to another waters of the U.S. The wetlands are not adjacent (bordering, contiguous, or neighboring) to another water of the U.S. and they are not separated from another water of the U.S. by man-made dikes or barriers, natural river berms, or beach dunes. The review area is a rapidly developing commercial area and is 0.58 miles from the nearest tributary, precluding any ecological interconnection with another jurisdictional water. There is no link to interstate or foreign commerce and the wetlands are not used by interstate or foreign travelers for recreation or other purposes. The wetlands do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce, and are not used for industrial purposes. Therefore, the Corps has determined that the subject wetlands are hydrologically isolated and 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

¹ Supporting documentation is presented in Section III.F.

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: 7.8 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.

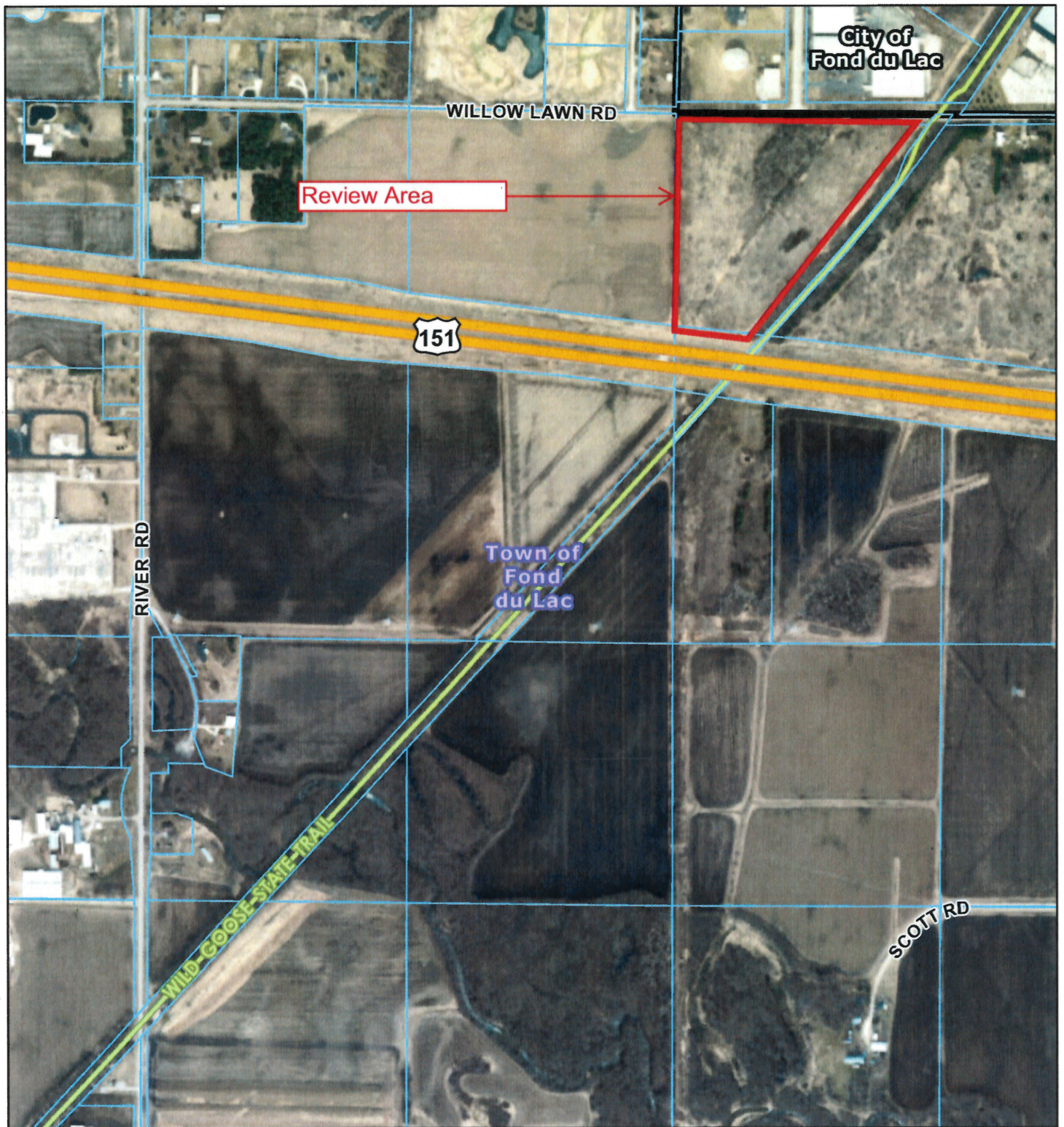
SECTION IV: DATA SOURCES.

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):

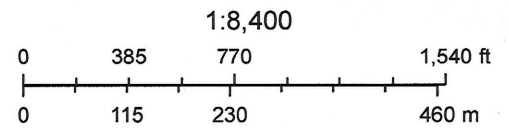
- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Rob Davy- Lake Country Engineering
- ☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - ☐ Office concurs with data sheets/delineation report.
 - ☐ Office does not concur with data sheets/delineation 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 WI-Byron
- ☐ 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): FSA slide review in Google Maps
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): Site visit on August 14, 2018

B. ADDITIONAL COMMENTS TO SUPPORT JD:

MVP-2018-2406-RJH Figures 1 of 3
Willow Lawn 2015 Aerial



August 14, 2018

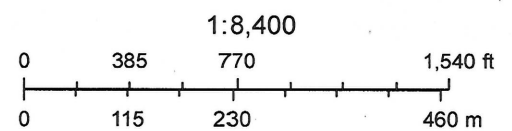


Fond du Lac County

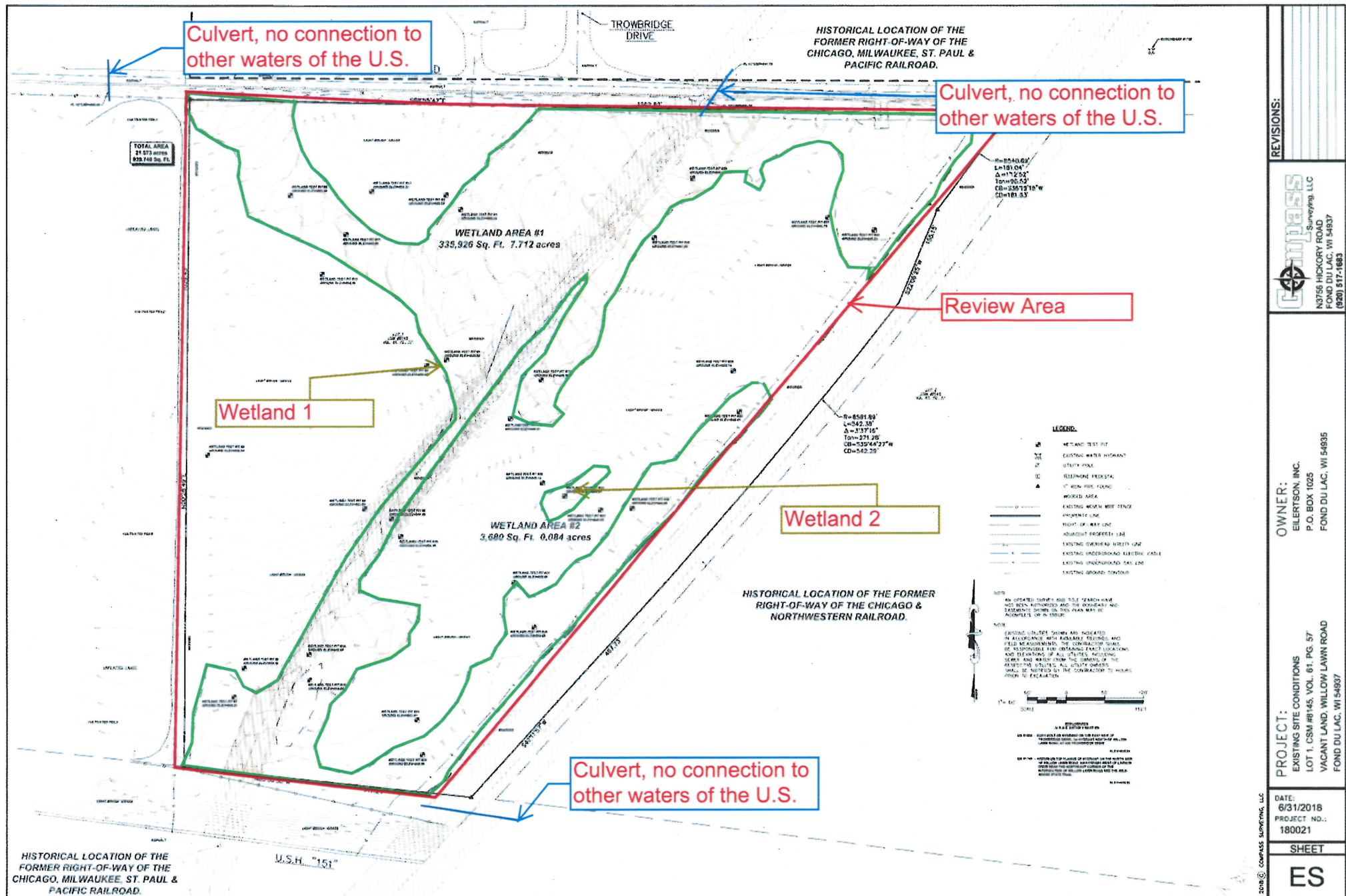
Willow Lawn Topo



August 14, 2018



Fond du Lac County
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REVISIONS:

COMPASS SURVEYING, LLC
Surveying, LLC
N3756 HICKORY ROAD
FOND DU LAC, WI 54937
(920) 517-1683

OWNER:
EILERTSON, INC.
P.O. BOX 1025
FOND DU LAC, WI 54935

PROJECT:
EXISTING SITE CONDITIONS
LOT 1, CSM #8145, VOL. 61, PG. 57
VACANT LAND, WILLOW LAWN ROAD
FOND DU LAC, WI 54937

DATE: 6/31/2018
PROJECT NO.: 180021

SHEET:
ES