

**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):** March 15, 2023

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** MVP-2023-00273-DDP (Bakken Park Expansion)

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: **WI** County/parish/borough: **Dane** City: **Village of Cottage Grove**

Center coordinates of site (lat/long in degree decimal format): Lat. **43.074436°** **Pick List**, Long. **-89.205699°** **Pick List**.

Universal Transverse Mercator: **16**

Name of nearest waterbody: **Koshkonong Creek**

Name of watershed or Hydrologic Unit Code (HUC): **07090002 Upper Mississippi Region**

☒ 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: **March 10, 2023**

☐ 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):<sup>1</sup>**

☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **Bakken Park Expansion review area (9.6 acres) contains one aquatic feature for review: Wetland 1 (1960 square feet). The majority of the review area consists of an urban park land use. Based on analysis of multiple years of aerial photography 2000-2022, USDA web soil survey maps, and the WISDOT Project 3625-00-04 - Glacial Drumlin Path Wetland Delineation Report - Dated August 2020, the Corps has determined that Wetland 1 is not jurisdictional.**

**Wetland 1 is a drainage feature created incidentally in uplands during the initial construction of Grove Street and upland grading to the West. From reviewing the Village of Cottage Grove Stormwater Viewer App and Google Earth street viewer, Wetland 1 is located at the toe slope of the roadway next to a stormwater drainage culvert at the southern extent of the wetland boundary. No other wetland features were identified in the vicinity. Upland grading to the west was identified in 2010 air photography, since that time water is directed from the upland park to the culvert pipe. No wet spots were identified prior to the upland grading. In accordance with the 33 CFR § 328.3(B)9, Rapanos guidance, Wetland 1 is not within the Corps jurisdiction because Wetland 1 was constructed in uplands, drains only uplands, and does not have relatively permanent flow.**

**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**

<sup>1</sup> 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): **Wetland 1 (1960squarefeet)**

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: **WISDOT Project 3625-00-04 - Glacial Drumlin Path Wetland Delineation Report - Dated August 2020**

☒ 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: **Regulatory Viewer layer accessed March 9, 2023**

☒ USGS NHD data.

☐ USGS 8 and 12 digit HUC maps.

☒ U.S. Geological Survey map(s). Cite scale & quad name: **1:24K Quad Name: Cottage Grove**

☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Dane County Soil Survey**

☒ National wetlands inventory map(s). Cite name: **Regulatory Viewer layer accessed March 9, 2023**

☒ State/Local wetland inventory map(s): **Regulatory Viewer layer accessed March 9, 2023**

☐ FEMA/FIRM maps:

☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

☒ Photographs: ☒ Aerial (Name & Date): **Google Earth accessed March 9, 2023**

or ☒ Other (Name & Date): **Site Photos from Deliniation Report and Street View from Google Earth accessed March 9, 2023.**

☐ Previous determination(s). File no. and date of response letter:

☐ Applicable/supporting case law:

☐ Applicable/supporting scientific literature:

☒ Other information (please specify): **Village of Cottage Grove GIS accessed March 9, 2023**

B. ADDITIONAL COMMENTS TO SUPPORT JD: