

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 25, 2020

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2020-00140-SJW

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Wisconsin

County/parish/borough: Dane

City: Madison

Center coordinates of site (lat/long in degree decimal format): Lat. 43.1104° N, Long. -89.3617° E.

Universal Transverse Mercator: Zone 16

Name of nearest waterbody: Yahara River

Name of watershed or Hydrologic Unit Code (HUC): 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: March 03, 2020

☐ 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 29.57 acre review area contains one 7.12 acre wetland which is comprised of a depressional area and stormwater conveyance swales. This isolated wetland is identified as "W-1A" and "W-1B" on the attached figure labeled MVP-2020-00140-SJW: Figure 1. However the wetland includes only one contiguous isolated wetland feature and will therefore be referred to as "W-1". W-1 is surrounded entirely by uplands which have been previously developed and are primarily utilized for commercial purposes. The review area itself is best described as a vacant/abandoned industrial lot with a railroad bordering the east side of the property and commercial developments to the north, south, and west. A review of the USDA/NRCS web soil survey indicates W-1 is situated within two soil map units identified as Colwood silt loam (Co) and Virgil silt loam (VwA) which are most commonly situated in drainageways, depressions, or depressions on outwash plains. A review of aerial imagery dating back to the year 2008 indicates that a large portion of W-1 is comprised of a shallow marsh which is inundated for a majority of the year. In addition, aerial imagery review suggests that on-site grading activities were performed to convey stormwater into this wetland feature which likely contributes to the year round inundation observed on the aerial imagery. According to the wetland delineation report which was completed on behalf of the landowners by Heartland Ecological Group, W-1 consists of a mix of wet meadow and shallow marsh type wetlands with dominant plant species including reed canary grass, hybrid cattail, redtop grass, and kentucky bluegrass. W-1 does not maintain a surface or shallow subsurface hydrologic connection or ecological connection to a downstream TNW, nor is it separated from other WOUS by man-made dikes, barriers or berms. Due to the existing and surrounding land use (commercial development) and proximity to other waters, there is no ecological connection to other wetlands or waters. W-1 does not support a link to interstate or foreign commerce; is not known to be used by interstate or foreign travelers for recreation or other purposes; does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and is not known to be used for industrial purposes by industries in interstate commerce.**

¹ Supporting documentation is presented in Section III.F.

Therefore, the Corps has determined that W-1 is an isolated feature that is 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

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: 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: 7.12 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: Heartland Ecological Group, Inc.
- ☐ 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 - Madison East
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Dane County
- ☐ 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): 2008, 2013, 2015, 2017
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: