

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-2019-03032-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. 43.04095° N, Long. -89.296548° 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 04, 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 29.1 acre review area contains three wetland areas totaling 1.77 acres of wetland. These wetlands are identified as W1, W2, and W3 on the attached figure labeled MVP-2019-03032-SJW: Figure 1. The review area is best described as a mix of agricultural lands and undeveloped forested lands which are situated adjacent to lands which have been previously developed and are currently utilized for industrial/commercial purposes. W1 (0.99 acre) is situated in the northernmost portion of the review area, and is described as an isolated forested wetland with dominant vegetation including garlic mustard, buckthorn, box elder, and green ash. W1 is surrounded entirely by uplands, and there are no observable inlets/outlets which would suggest that this wetland feature may maintain a hydrological connection to a downstream TNW. W2 (0.54 acre) is situated in the southernmost portion of the review area in an agricultural field which is currently utilized for the production of commodity crops, specifically corn. Similar to W1, W2 is surrounded entirely by uplands, and there are no observable inlets/outlets which would suggest that this wetland may maintain a downstream hydrological connection to a TNW. W3 (0.24 acre) is situated in the westernmost portion of the site, and is described as a depressional wet meadow located immediately adjacent to a church parking lot on the neighboring property. Vegetation observed within W3 is described as a monoculture of reed canary grass, and there are no observable inlets/outlets associated with this wetland. A review of the USDA Web Soil Survey indicates that these wetland features are situated in areas mapped as hydric or partially hydric soils including wetland indicator soils. Specifically, the hydric soils identified within these wetland areas include Marshan silt loam (Mc), Virgil silt loam (VwA), and Wacousta silty clay (Wa). These soils are generally located in depressions on stream terraces, outwash plains, and interdrumlins. A review of available resources including aerial imagery dating back to the year 2008, WWI mapping, topographic mapping, etc. suggests that these wetland features do not maintain a surface or shallow subsurface hydrologic connection or an ecological connection to a downstream TNW, nor are they separated from other WOUS by man-made dikes, barriers, or berms.**

¹ Supporting documentation is presented in Section III.F.

In addition, the nearest RPW is located approximately 0.30 miles to the north of the review area, and these wetland features are surrounded entirely by uplands. Due to the existing and surrounding land uses (mainly agriculture and commercial/industrial development), and proximity to other waters, there is no ecological connection to these wetlands and other jurisdictional wetlands or waters. These wetlands do not support a link to interstate or foreign commerce, are not known to be used by interstate or foreign travelers for recreation or other purposes, do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and are not known to be used for industrial purposes by industries in interstate commerce. Therefore, the Corps has determined that W1, W2, and W3 are isolated features that 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

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: 1.77 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: Jeff Kraemer - 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): Wisconsin Wetland Inventory
- ☐ 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: