

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): September 22, 2021

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2021-01628-SJW

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Wisconsin** County/parish/borough: **Door** City: **Village of Egg Harbor**
Center coordinates of site (lat/long in degree decimal format): Lat. **45.046102° N**, Long. **-87.294737° E**.
Universal Transverse Mercator: **Zone 16**
Name of nearest waterbody: **Lake Michigan**
Name of watershed or Hydrologic Unit Code (HUC): **04030201 - Great Lakes 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: **September 22, 2021**
☐ 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 review area includes one wetland feature which is identified as "Wetland 2" on the attached figures labeled MVP-2021-01628-SJW: Page 1 of 2 through 2 of 2. According to the wetland delineation report which was submitted as part of the Approved Jurisdictional Determination (AJD) request, Wetland 2 (1,287 square feet) is a depressional forested wetland surrounded entirely by uplands. A review of the Wisconsin Wetland Inventory (WWI) mapping does not show any mapped wetlands within the delineated limits of Wetland 2. However, as indicated in the wetland delineation report, Wetland 2 exhibits hydrophytic vegetation, hydric soil, and wetland hydrology, and therefore meets wetland criteria. There are no mapped hydric soils within or in close proximity to Wetland 2, further suggesting that this feature is an isolated wetland surrounded entirely by uplands. The nearest waterbody (Lake Michigan) is located approximately 0.07 miles to the east of Wetland 2, and there are no observable inlets/outlets which would suggest that this wetland feature may maintain a hydrological connection to a downstream TNW. A review of additional available resources including aerial imagery dating back to the year 2008 and topographic mapping suggest that these wetland features do not maintain a surface or shallow subsurface hydrologic connection or an ecologic connection to a downstream TNW, nor are they separated from other WOUS by man-made dikes, barriers, or berms. As previously stated, Lake Michigan (TNW) is located approximately 0.07 miles to the east of Wetland 2. However, the area in between these two aquatic resources is comprised entirely of uplands, eliminating the potential for a hydrologic connection. Given the existing and surrounding landscape characteristics and proximity to other waters, there is no hydrologic connection between Wetland 2 and other jurisdictional wetlands or waters. Wetland 2 does not support a link to interstate or foreign commerce, is not 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. Therefore, the**

¹ Supporting documentation is presented in Section III.F.

Corps has determined that Wetland 2 is an isolated wetland 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: 0.02 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: **Shyann Banker - Evergreen**

Consultants LLC

- ☐ 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 - Egg Harbor**
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Door 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, 2020**
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: