SECTION I:  BACKGROUND INFORMATION
A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): DEC 2 2 2017


C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Wisconsin  County/parish/borough: Racine  City: Mount Pleasant
Center coordinates of site (lat/long in degree decimal format): Lat. 42.720363° N, Long. -87.947047° W.
Universal Transverse Mercator: Zone 16 (Sec.18, T.3N., R.22E.)

Name of nearest waterbody: Unnamed tributary to Hoods Creek
Name of watershed or Hydrologic Unit Code (HUC): Great Lakes Region (04040002)
☐ 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: November 9, 2017
☐ 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: Within the approximate 2-acre review area, three ditches (Wetlands A, B, and E) and a dry stormwater detention basin (Wetland C) were constructed in uplands and are not waters of the U.S. This determination was confirmed by reviewing the Wisconsin Wetland Inventory (WWI) map, a 1986 certified survey map, historic aerial photograph from 1937, FSA crop slides from 1980-2002, and Google Earth images from 2000-2017. None of the aquatic resources appear in the WWI map. The roadway in which the ditches run along was constructed between 1937 and 1980. Examination of the 1937 aerial photograph does not exhibit wet signatures in the area of the roadside ditches. Site photos from the Bates wetland delineation indicate that these ditches do not have relatively permanent flow of water. The dry detention basin (Wetland C) was constructed in the 1980’s and is noted as an existing holding pond in the 1986 certified survey map of the area. The determination of no jurisdiction for the ditches and stormwater detention basin is in accordance with the preamble to the 1986 Corps Regulations (33 CFR Parts 320-330), which states that the Corps does not generally consider the following to be waters of the U.S.; non-tidal drainage and irrigation ditches excavated on dry land and artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.

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 JURISDIOCIONAL 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): The roadside ditches (Wetlands A, B, and E) and dry stormwater detention basin (Wetland C) were constructed in uplands and are not waters of the U.S. as detailed in Section II.B.2.

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: 1986 certified survey map and 2015 Bates Soil & Water Testing Services, Inc wetland delineation

☒ 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:

☐ USDA Natural Resources Conservation Service Soil Survey. Citation:

☐ National wetlands inventory map(s). Cite name:

☒ State/Local wetland inventory map(s): WWI

☐ FEMA/FIRM maps:

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


☐ 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: The roadside ditches (Wetlands A, B, and E) and dry stormwater detention basin (Wetland C) were constructed in uplands and are not waters of the U.S. as detailed in Section II.B.2.