

**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):** **MAR 24 2017**

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** Opus Drive Freight Terminal, MVP-2016-03450-ANM (Wetland 1)

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

State: Wisconsin County/parish/borough: Milwaukee City: Oak Creek

Center coordinates of site (lat/long in degree decimal format): Lat. 42.86° N, Long. -87.92161° W.

Universal Transverse Mercator: Zone 16 (Sec.32, T.5N., R.22E.)

Name of nearest waterbody: Unnamed tributary of the Root River

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: March 3, 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):<sup>1</sup>**

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **Within the 2-acre review area, a 0.11-acre stormwater detention basin (Wetland 1) was constructed in uplands between 2007 and 2008 and is not a water of the U.S. This was confirmed by reviewing construction plans, a 2003 certified delineation survey map, aerial photographs dated 1963, 1970, 1975, 1980, 1985, 1990, 2000, 2005, 2010, and WWI. The detention basin does not appear in the Wisconsin Wetland Inventory maps and does not exhibit wet signatures in the aerial photographs. A copy of the 2003 Wetland Delineation Certified Survey Map was provided and indicates J.D. Knowles & Associates delineated the site on May 5, 2002, but no wetlands were delineated in the area of the detention basin. A copy of the paving and storm sewer plans from the City of Oak Creek dated July 10, 2007 show a stormwater outlet structure and basin to be constructed in the area directly west of W. Opus Drive. The non-jurisdictional determination for this 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.; artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water and 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**

<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): **The 0.11-acre stormwater basin (Wetland 1) is not a water of the U.S. pursuant to the preamble to the Corps 1986 regulations (33 CFR Parts 320-330).**

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.

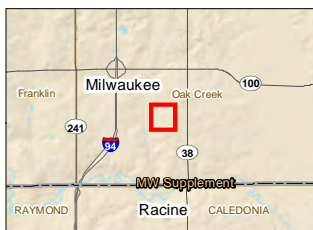
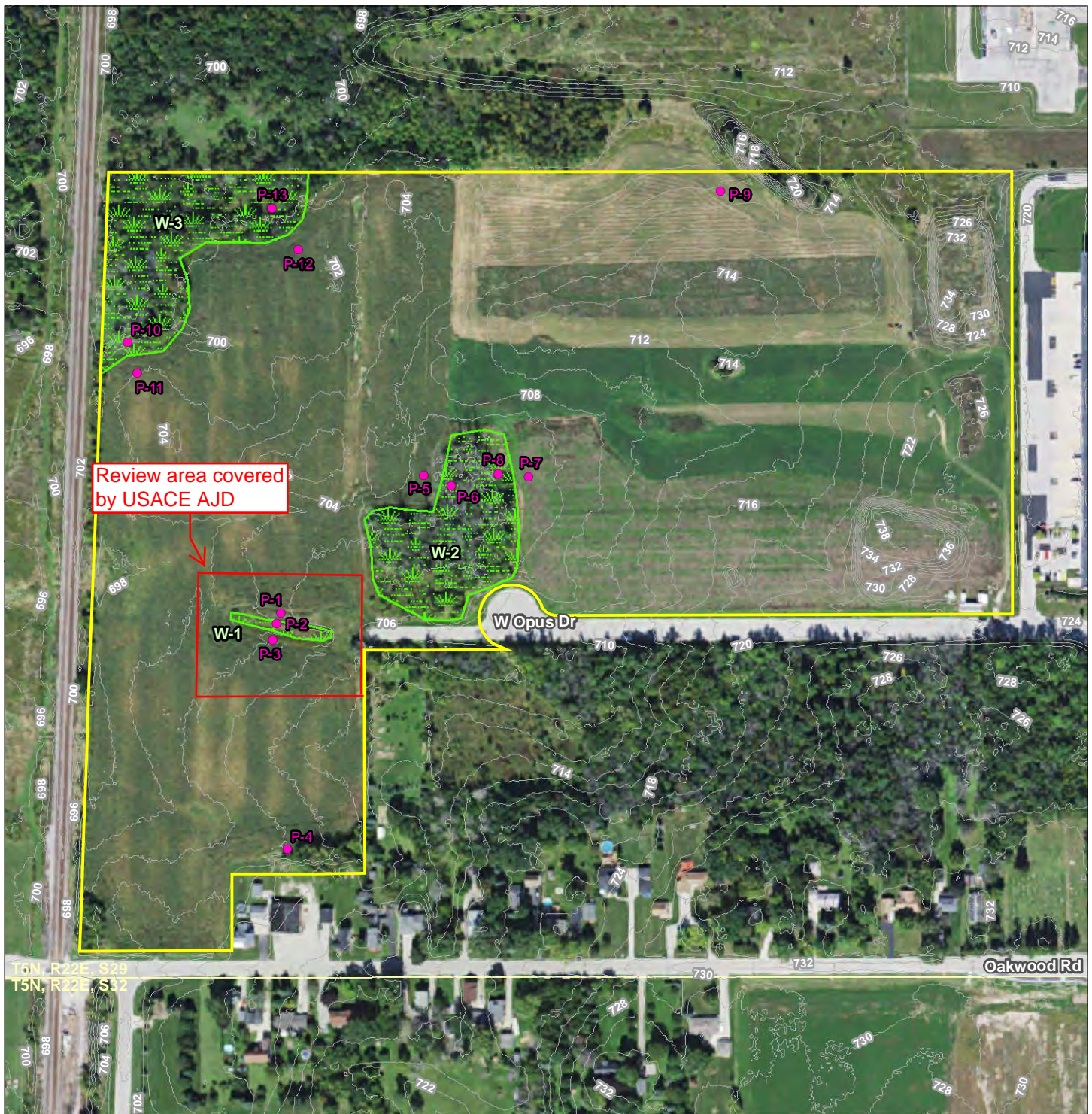
#### SECTION IV: DATA SOURCES.

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: 2007 City of Oak Creek Paving and Storm Sewer plans and 2016 Stantec 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)
- ☒ Photographs: ☒ Aerial (Name & Date): Milwaukee County (1963, 1970, 1975, 1980, 1985, 1990, 2000, 2005, 2010)  
or ☒ Other (Name & Date): 2016 Stantec site photographs
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): 2003 Wetland Delineation Certified Survey Map

B. ADDITIONAL COMMENTS TO SUPPORT JD: The stormwater detention basin (Wetland 1) was constructed in uplands and is not a water of the U.S. as detailed in Section II.B.2.





- Notes
1. Coordinate System: NAD 1983 StatePlane Wisconsin South FIPS 4803 Feet
  2. Data Sources Include: Stantec, WDOT, WDNR
  3. Orthophotography: NAIP 2015

Disclaimer: Stantec assumes no responsibility for data supplied in electronic format. The recipient accepts full responsibility for verifying the accuracy and completeness of the data. The recipient releases Stantec, its officers, employees, consultants and agents, from any and all claims arising in any way from the content or provision of the data.

### Legend

- Approximate Project Location
- Sample Point
- Field Delineated Wetland
- 2 FT Elevation Contour
- ~ DNR 24k Hydrography\*
  - ~ Perennial Stream
  - - - Intermittent Stream
  - ~ Waterbody

\*No Features Within Data Frame

Figure No.

5

Title

Field Collected Data

Client/Project

Ruedebsch Development & Construction, Inc.  
Oak Creek Opus Drive Freight Terminal

Project Location

T5N, R22E, S29  
C. of Oak Creek, Milwaukee Co., WI

193704653

Prepared by BT on 2016-08-22

Technical Review by MP on 2016-08-22

Independent Review by JS on 2016-09-02

0 150 300 Feet  
1:3,600 (at original document size of 8.5x11)

