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): December 12, 2016

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Menomonee Falls Storage Facility, 2016-03657-MHK (Wetland 1, Wetland 3)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Wisconsin   County/parish/borough: Waukesha   City: Menomonee Falls
Center coordinates of site (lat/long in degree decimal format): Lat. 43.18052° N, Long. 88.07921° E
Universal Transverse Mercator: 16
Name of nearest waterbody: Unnamed Tributary to the Menomonee River
Name of watershed or Hydrologic Unit Code (HUC): Great Lakes Region (04040003)

☐ 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 17, 2016
☐ 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):[x]
Potential jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: The review area contains two intrastate wetlands (Wetland 1 and 3). These wetlands are within a field which was actively farmed until 2007. There is no known drain tile system in the field. The field has been previously disturbed by grading and excavation activities. Both wetlands are located within an area mapped with Ozaukee silt loam (OuB) which is an upland soil. These wetlands do not appear on the Wisconsin Wetland Inventory maps and are not within a 100-year floodplain. Wetland 1 is within a depressional area in a higher part of the site. Site hydrology drains from west to east as seen in the topographic map, and the wetland delineator identified a drainage path which flows to and terminates at Wetland 3. The eastern part of the site is very flat. There are no ditches along State Highway 145. Both wetlands are not bordering, contiguous or neighboring another WOUS. Wetland 1 and 3 are not separated from other WOUS by man-made dikes, barriers, or berms. The closest tributary is to the west, approximately 1200 feet from Wetland 1. Wetland 1 and 3 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 Wetland 1 and 3 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

1 Supporting documentation is presented in Section III.F.
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: W-1 is 0.03 acre and W-3 is 0.01 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: OTIE 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: 1:24K Quad: WI-Menomonee Falls
- USDA Natural Resources Conservation Service Soil Survey. Citation: Waukesha County
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s): Wisconsin Wetland Inventory
- FEMA/FIRM maps: Waukesha County Panel 203
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Other (Name & Date): OTIE Delineation photos
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): Wisconsin Department of Natural Resources wetland concurrence letter dated August 23, 2016
B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetland 1 and 3 are hydrologically isolated and have no connection to any water of the United States.