

**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): April 5, 2019**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2014-02166-AIS**

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

State: Wisconsin County/parish/borough: Brown County City: Green Bay  
Center coordinates of site (lat/long in degree decimal format): Lat. 44.538079 °N, Long. 88.074173 °W  
Universal Transverse Mercator: 16T 414661. 74E, 4932188.09N

Name of nearest waterbody: Duck Creek

Name of watershed or Hydrologic Unit Code (HUC): Fox (04030204)

- Check if map/diagram of review area is 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: April 2, 2019  
 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 not to be jurisdictional.

Explain: **The review area for this determination contains two roadside ditches labeled W-1 and W-2 on the attached figure labeled MVP-2014-02166-AIS Page 2 of 8. A previous AJD was issued for these ditches on September 26, 2014 and the conditions have not changed in the time since then.**

**The roadside ditches were constructed in uplands, drain only uplands, and do not carry a relatively permanent flow of water into waters of the U.S. (WoUS). Per the Rapanos decision, the evaluated ditches are not WoUS because they are not tributaries and do not have a significant nexus to traditionally navigable waters. This was confirmed by reviewing aerial photography, elevation data and soils data.**

**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):

<sup>1</sup> Supporting documentation is presented in Section III.F.

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: **See Section II.B.2, above.**
- Wetlands: \_\_\_\_ (# ac.)

**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: raSmith
- 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:
- 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: Brown County Soil Survey
- National wetlands inventory map(s). Cite name: USFWS NWI
- State/Local wetland inventory map(s): Wisconsin Wetland Inventory
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is:
- Photographs:  Aerial (Name & Date): 1960 & 1978 Aerials provided by applicant
  - or  Other (Name & Date): Google Earth (1992-2018)
- Previous determination(s). File no. and date of response letter: MVP-2014-02166-JRS (September 26, 2014)
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): 1-foot contours provided by applicant

**B. REQUIRED ADDITIONAL COMMENTS TO SUPPORT JD.**