

**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 15, 2019

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** Foxconn Area 3 east of railroad, MVP-2018-03170-MHK (W3, W5 - W8, W10 - W14, W24 - W27, W29 - W31, and W33 - W34, P-1)

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

State: WI County/parish/borough: Racine City: Mount Pleasant

Center coordinates of site (lat/long in degree decimal format): Lat. 42.67592° N, Long. -87.90189° E.

Universal Transverse Mercator: Zone 16 (X 426103.34, Y 4725221.95)

Name of nearest waterbody: Pike 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 19, 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 to be not jurisdictional. Explain: **The review area contains 19 intrastate wetlands and one pond: W3, W5, W6, W7, W8, W10, W11, W12, W13, W14, W24, W25, W26, W27, W29, W30, W31, W33, W34 and P1. A review of the 2018 TRC Environmental Corporation wetland delineation report, NRCS soil survey, USGS topographic map, National Hydrography Dataset, Wisconsin Wetland Inventory, Racine County GIS 2-foot contour map, and aerial photos from 1981 to present indicate that these are isolated waters with no surface or shallow subsurface connection to the unnamed tributary to the Pike River, approximately 356 feet to the north of W5 (closest wetland). There were no surface inlets/outlets observed in the wetlands. W11 is separated by railroad tracks from W16 which was determined to be an isolated, non-jurisdictional wetland per an approved jurisdiction dated Dec. 21, 2018. These waters do not border, neighbor nor are contiguous with another water of the U.S. They are not separated from other WOUS by man-made dikes, barriers, or berms. These wetlands are surrounded by agricultural areas and transportation corridors. The disturbance of surrounding land uses precludes an ecological connection to a WOUS.**

**These aquatic resources 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 these wetlands 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

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

**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: W3 is 0.13 acre, W5 is 0.35 acre, W6 is 0.05 acre, W7 is 0.16 acre, W8 is 4.13 acres, W10 is 0.25 acre, W11 is 2.21 acres, W12 is 0.10 acre, W13 is 0.27 acre, W14 is 0.11 acre, W24 is 0.58 acre, W25 is 1.7 acres, W26 is 0.08 acre, W27 is 0.18 acre, W29 is 0.03 acre, W30 is 0.09 acre, W31 is 0.21 acre, W33 is 0.12 acre, W34 is 1.63 acres and P1 is 0.54 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: TRC Environmental Corporation "Area 3 Mount Pleasant, WI 53117" Wetland Delineation Report dated November 14, 2018
- ☒ 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-Sturtevant
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Racine County
- ☐ National wetlands inventory map(s). Cite name:
- ☒ State/Local wetland inventory map(s): Wisconsin Wetland Inventory (Wisconsin DNR Surface Water Data Viewer)
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is:      (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): FSA crop slides 1980-1987, 1989-2002; Racine County GIS 2000, 2005, 2010, 2015; DigitalGlobe 2017; Google Earth 2005-2018

or ☒ Other (Name & Date):ground level photos in 2018 delineation report and supplemental TRC photos

☒ Previous determination(s). File no. and date of response letter:MVP-2018-03170-MHK isolated jurisdictional determination for W-16 (December 21, 2018)

☐ Applicable/supporting case law:

☐ Applicable/supporting scientific literature:

☒ Other information (please specify):Racine County GIS 2-foot contour map

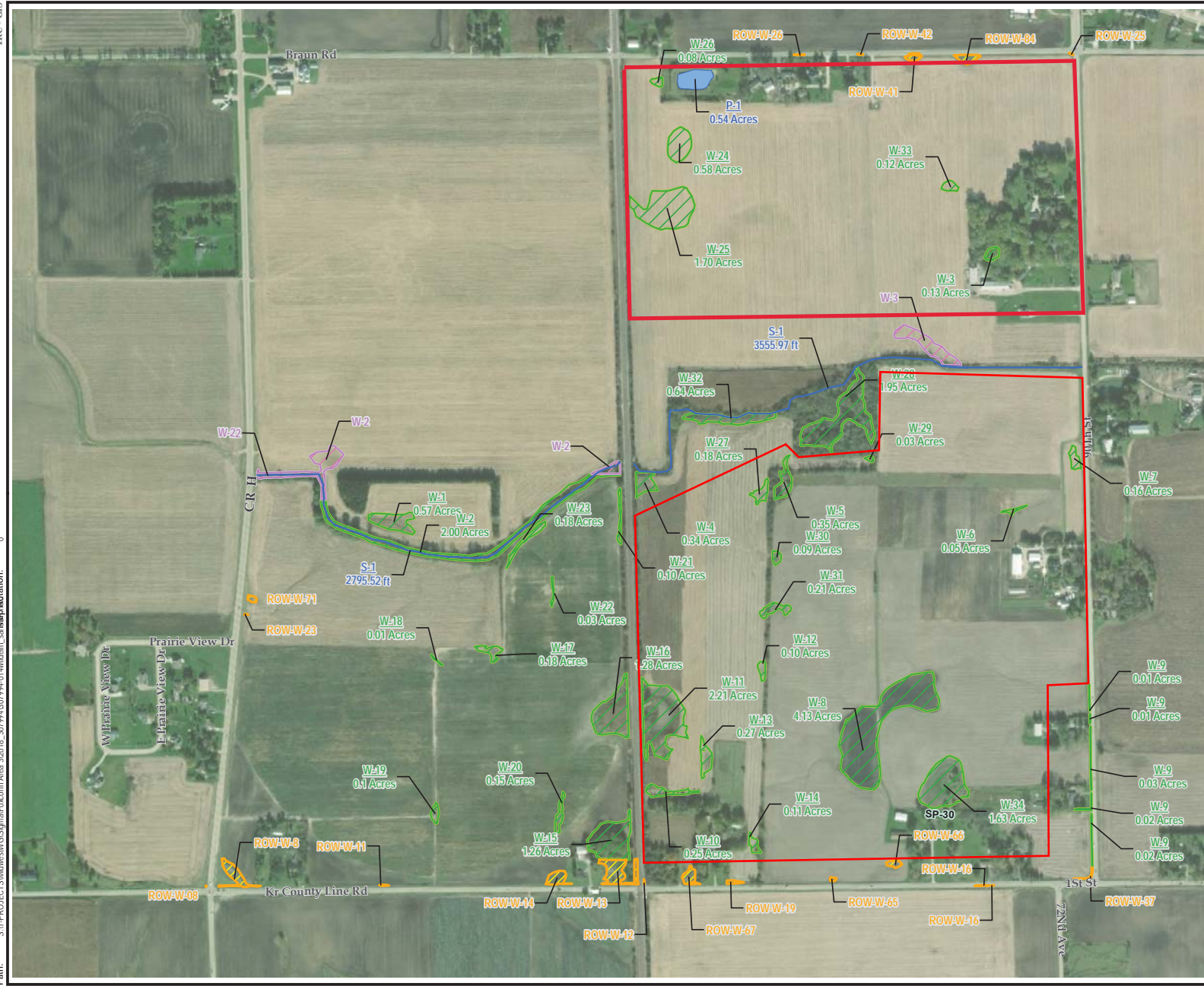
**B. ADDITIONAL COMMENTS TO SUPPORT JD:**

MVP-2018-03170-MHK Area 3  
(east of railroad) Figure 1

TRC - GIS

Coordinate System: NAD 1983 StatePlane Wisconsin South FIPS 4803 Feet (Foot US)  
Map Resolution: 0

Plot Date: 11/12/2018 09:12:59 AM by SJAOR - LAYOUT: ANSI B(11"x17")  
Path: S:\PROJECTS\Wetlands\GIS\SP\Lakeview Area 3\2018\_307994\307994\_01\Wetland\_sansSP.mxd

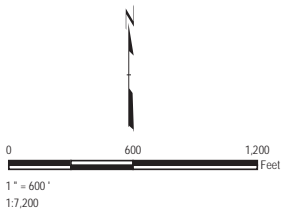


LEGEND

- JD review area
- TRC DELINEATED WETLAND 2017
- TRC DELINEATED WETLAND TRC
- DELINEATED WETLAND (TID5) TRC
- DELINEATED PONDS
- TRC DELINEATED STREAM

NOTES

- BASE MAP IMAGERY FROM DIGITALGLOBE WEBSERVICE LAYER, 2017.
- INFORMATION FOR THE 2017 DELINEATED WETLANDS CAN BE FOUND IN THE DEVELOPMENT ROADS WETLAND AND WATERWAY DELINEATION REPORT PREPARED BY TRC DATED DECEMBER 22, 2017.
- INFORMATION FOR THE TID 5 PROJECT AREA CAN BE FOUND IN THE TID5 SANITARY SEWER: CTH H TO PIKE RIVER GRAVITY CONVEYANCE (GS-1) WETLAND AND WATERWAY DELINEATION REPORT PREPARED BY TRC DATED MAY 24, 2018.



|   |               |   |        |
|---|---------------|---|--------|
| PROJECT:                                |               |   |        |
| AREA 3<br>RACINE COUNTY, WISCONSIN      |               |   |        |
| TITLE:                                  |               |   |        |
| WETLAND AND WATERWAY<br>DELINEATION MAP |               |   |        |
| DRAWN BY:                               | S. MAJOR      | PROJ. NO.:  | 307994 |
| CHECKED BY:                             | A. LARSEN     |   |        |
| APPROVED BY:                            | A. LARSEN     |   |        |
| DATE:                                   | NOVEMBER 2018 |   |        |
|   |               | EXHIBIT A   |        |
|   |               | 150 North Patrick Blvd., Suite 180<br>Brookfield, WI 53005<br>Phone: 262.879.1212<br>www.trcsolutions.com |        |
| FILE NO.:                               |               | 307994-014w\ddelin_sansSP.mxd   |        |