

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 12, 2019

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: FHCC Addition - MVP-2019-00260-EMN

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Wisconsin** County/parish/borough: **Milwaukee** City:
Center coordinates of site (lat/long in degree decimal format): Lat. **42.91964° N**, Long. **-88.05255° W**.
Universal Transverse Mercator: **Zone 16**

Name of nearest waterbody: **Ryan Creek**

Name of watershed or Hydrologic Unit Code (HUC): **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 6, 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):¹

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **There is a man-made ditch (0.06 acres) and three intrastate wetlands (W-2, W-3, and W-4) delineated within the review area as shown on the attached figures (MVP-2019-00260-EMN, Page 2 of 13). The USGS Topo map shows the ditch is located in a flat area in the landscape and the wetlands are located on an approximately 1-6% slope. There are no mapped wetlands on the Wisconsin Wetland Inventory at the location of these aquatic resources. The ditch is located within the Blount silt loam soil unit (BIA) which is a somewhat poorly drained soil with hydric soil inclusions and average depth to water table of 6-24 inches. W-2 and W-3 are located within the Ozaukee silt loam soil unit (OzaB2) which is a moderately well drained soil with no hydric soil inclusions and an average depth to water table of 24-42 inches. W-4 is located within the Ashkum silty clay loam soil unit (AsA), which is poorly drained and has an average depth to water table of 0-12 inches. The consultant (raSmith) stated that these three wetlands formed from past construction activities (grading and filling around the facility) and developed wetland characteristics on top of existing fill. The consultant also provided information that states the man-made ditch was constructed between 1998-2000 to act as a stormwater conveyance to direct runoff from the facility and parking lots to the stormwater pond to the south. A review of historic aerial photos from 1980 and 1990 do not show the presence of a wetland or wet signatures at any of these locations. The 2000 aerial photo shows grading and disturbance within the areas where these features are located, which would be consistent with the construction of the large building to the south and construction of the stormwater features (1998-2000). Wet signatures become evident in the ditch and the three wetland locations in subsequent years (2005-2018). Based upon this information, we have determined the ditch was constructed in dry land and is not a water of the United States and the three wetlands formed as a result of past construction activities in uplands. This determination of no jurisdiction is in accordance with the preamble to the 1986 Corps Regulations (33 CFR Parts 320-330) and the 2008 Rapanos Guidance.**

¹ Supporting documentation is presented in Section III.F.

B. ADDITIONAL COMMENTS TO SUPPORT JD: Reference attachments for historical aerial photos and supporting figures.