

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 26, 2019

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Menards County Road T Development, MVP-2019-00812-DJM

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Wisconsin** County/parish/borough: **Eau Claire County** City: **Eau Claire**
Center coordinates of site (lat/long in degree decimal format): Lat. **44.852143° N**, Long. **-91.551767° W**.
Universal Transverse Mercator: **Zone 15**

Name of nearest waterbody: **Sherman Creek**

Name of watershed or Hydrologic Unit Code (HUC): **(07050005)**

- 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: **April 25, 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: **The review area contains 5 wet areas identified as (Wet Areas 1-5) and a drainage feature totalling approximately 15.81 acres in size. The review area is currently comprised of agricultural land and has been in production since as far back as 1938 according to aerial photography. According to historical aerial imagery, Wet Areas 1 and 3 appeared to have first shown up in about 1980. Although the areas appear wet, they were continually farmed up until about 2013 when open water was first observed. The review area currently has an erosional drainage feature connected to Wet Areas 1 and 2. The drainage feature appears to have formed in 2001 as a result of commercial land development to the east of County Trunk Highway (CTH) T. Stormwater flow from the commercial properties has been directed to the review area, which is the contributing factor to the wet areas appearing more consistently around 2001 and every year thereafter. Open water first appeared in 2013 following the construction of an industrial facility east of CTH T.**

According to the 2018 delineation report (The Report), hydric soils were not documented during the 2018 field season. Additionally, The Report documented that the wet areas have only developed wetland hydrology and vegetation in the last 10 years. Information provided in The Report indicates that the subject wet areas and drainage feature do not have a relatively permanent flow of water and are not Waters of the United States.

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): **The review area identified on the enclosed figures contains 5 wet areas**

identified as (Wet Areas 1-5). Wet Areas 1-5, for which this form has been prepared formed as a result of stormwater run-off following the construction of commercial properties adjacent to review area. While the wet areas and drainage feature may hold water during storm events, they do not carry relatively permanent flows of water and do not drain a water of the United States. The wet areas and drainage feature should not be considered Waters of the United States.

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: 15.81 acres. List type of aquatic resource: **wet areas formed as a result of stormwater run-off.**
- 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: **2018 Wetland Delineation Report prepared by Olivia Alloy of Wisconsin Environmental Restorations, LLC.**
- 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 (Eau Claire West)**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Eau Claire County Web Soil Survey**
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): **Google Earth Aerial Maps April 1998, May 2005, June 2006, June 2008, March 2009, June 2010, October 2011, April 2014, and April 2017.**
 - or Other (Name & Date):
- Previous determination(s). File no. and date of response letter:

- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): WDNR Surface Water Data Viewer

B. ADDITIONAL COMMENTS TO SUPPORT JD: