

**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): August 22, 2019**

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2019-01426-SJW**

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

State: **Wisconsin** County/parish/borough: **Dane** City: **Verona**  
Center coordinates of site (lat/long in degree decimal format): Lat. **43.002618° N**, Long. **-89.56105° E**.  
Universal Transverse Mercator: **Zone 16**

Name of nearest waterbody: **Badger Mill Creek**

Name of watershed or Hydrologic Unit Code (HUC): **07090004**

- 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: **August 20, 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 two aquatic features, identified as SW-1 (0.31 acre) and SW-2 (1.91 acres) on the attached figure labeled MVP-2019-01426-SJW: AJD Review Area. SW-1 is described as a stormwater conveyance feature which was constructed within the limits of an area historically utilized for mining purposes. A review of aerial imagery indicates that mining operations were discontinued sometime after 2015, and SW-1 was constructed shortly thereafter prior to 2017. SW-1 is situated within a Gravel Pit soil unit which is described as a gravelly outwash with an unranked hydric soil rating. A review of the Wisconsin Wetland Inventory shows no mapped wetlands within or immediately to SW-1. SW-2 is described as an upland dug stormwater detention basin which was constructed between 2003 and 2005. A review of aerial imagery indicates SW-2 has remained continuously inundated since September of 2008. The majority of SW-2 (approximately 2/3) is situated within a Gravel Pit soil unit (described above). The remaining 1/3 (approx) of SW-2 is situated within the Huntsville silt loam soil unit which is described as a well drained non-hydric soil with 0-2 percent slopes and a depth to water table ranging between 36-72 inches. The Wisconsin Wetland Inventory mapping has W-2 classified as an open water area, however no other wetlands are mapped within the review area. Based on this information, SW-1 and SW-2 were constructed in uplands and are not waters of the U.S. The non-jurisdictional determination for these features is in accordance with the pre-amble to the 1986 Corps Regulations (33 CFR Parts 320-330), which states that the Corps does not generally consider the following to be waters of the U.S; artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins or rice growing. In addition, Corps regulations at 328.3(a)(8) specifically excludes waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA from being waters of the US. Based on this information, the Corps has determined that SW-1 and SW-2 are pre-amble waters and are not regulated by the Corps of Engineers under Section 404 of the Clean Water Act.**

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

**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): **Aquatic features identified as SW-1 and SW-2 are not waters of the United States pursuant to the preamble to the Corps of Engineers 1986 regulation (33 CFR parts 320-330).**

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:      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: **Heartland Ecological Group**
- 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-Middleton**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Web Soil Survey**
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s): **Wisconsin Wetland Inventory**
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is:      (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): **Surface Water Data Viewer**  
or  Other (Name & Date): **Google Earth**
- Previous determination(s). File no. and date of response letter:

- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

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