

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): February 25, 2019

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2015-00973-AIS

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Wisconsin County/parish/borough: Milwaukee County City: Franklin
Center coordinates of site (lat/long in degree decimal format): Lat. 42.86904 °N, Long. 88.060598 °W
Universal Transverse Mercator: Zone 16, x413368.628677, y4746817.582702

Name of nearest waterbody: Ryan Creek

Name of watershed or Hydrologic Unit Code (HUC): Pike-Root (04040002)

- 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: February 13, 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.

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):

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: **This jurisdictional determination is only applicable to wetland W-5 within the review area shown on the enclosed figure labeled MVP-2015-00973-AIS Page 1 of 4. Soils within the area in question consist of Blount silt loam and Ozaukee silt loam. According to Natural Resources Conservation Service (NRCS), these soil units are non-hydric or predominantly non-hydric. A review of available historic aerial photography indicated no wetness signatures at the location of W-5 until it and a second, since-filled, pond were constructed between 2011 and 2014. The site plan supports this determination that W-5 is an artificial pond constructed in uplands. The basis for this jurisdictional determination is the preamble to the 1986 Corps Regulations (33 CFR**

Parts 320-330), which states that the Corps generally does not consider certain waterbodies to be Waters of the U.S. (WoUS), including: 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. We conclude that W-5 is a settling basin constructed in uplands. Therefore, W-5 is not a WoUS and is not jurisdictional under the CWA.

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:
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s): Wisconsin Wetland Inventory
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is:
- Photographs: Aerial (Name & Date): Google Earth (2000-2018)
 or Other (Name & Date): Ground-level photographs provided by applicant
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): 1-foot LiDAR Contours

B. REQUIRED ADDITIONAL COMMENTS TO SUPPORT JD.