SECTION I: BACKGROUND INFORMATION
A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): January 10, 2019
B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2018-02114-DJM, Nelson, Dave / 1401 Packes Avenue Development
C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: Wisconsin   County/parish/borough: Dane County   City: Madison
   Center coordinates of site (lat/long in degree decimal format): Lat. 43.114195° N, Long. -89.352045° W.
   Universal Transverse Mercator: Zone 16
   Name of nearest waterbody: Starkweather Creek
   Name of watershed or Hydrologic Unit Code (HUC): 07090002
   ☑ 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: December 11, 2018
   ☑ 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):  
      ☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
      Explain: A desktop review of the site was conducted on December 11, 2018 to review the potentially jurisdictional waters Wetland 1 (0.63-acre), Wetland 2 (0.19-acre), Wetland 3 (0.33-acre), and Wetland 4 (0.60-acre) as requested by Jeffrey Kraemer of Heartland Ecological Group, Inc., acting on behalf of the applicant Dave Nelson of Ruedebusch Development and Construction. Corps staff determined that Wetlands 1, 2, 3, and 4 are isolated wetlands with no hydrologic connection to a water of the United States. The delineation report provided to the Corps included four wetlands on the 30.1-acre property. These wetlands are located in small depressional areas. Based upon information gathered as a result of the desktop review and the wetland delineation report, Corps staff determined that the four wetlands are wholly surrounded by uplands and lack a jurisdictional connection to a water of the United States. The waterbodies described above, Wetlands 1, 2, 3, and 4 do not support a link to interstate or foreign commerce because they are not known to be used by interstate or foreign travelers for recreation or other purposes; they do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and they are not known to be used for industrial purposes for interstate or foreign commerce. The waterbodies have been determined to be non-jurisdictional under the Clean Water Act because the wetlands lack connections and/or relationships sufficient to serve as a basis for jurisdiction.

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

1 Supporting documentation is presented in Section III.F.
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: 1.75 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: Received wetland delineation report July 24, 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, Madison East

☒ USDA Natural Resources Conservation Service Soil Survey. Citation:

☒ 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)


☒ 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: Wetlands 1, 2, 3, and 4 are located in closed, depressional basins within the 30.1-acre review area and are wholly surrounded by uplands.