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): July 29, 2016

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Waterford Waterway Management District dredging, 2014-03442-MHK (Super Mix of Wisconsin sand and gravel pit/Site D)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: WI  County/parish/borough: Racine  City: 
   Center coordinates of site (lat/long in degree decimal format):  Lat. 42.77415° N, Long. -88.25194° W
   Universal Transverse Mercator: Zone 16

   Name of nearest waterbody: Fox River
   Name of watershed or Hydrologic Unit Code (HUC): Upper Fox Illinois (07120006)

   ☑ 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: July 28, 2016
   ☐ 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 one intrastate sand and gravel pit totaling approximately 24 acres in size (according to a Wisconsin DNR Surface Water Data Viewer 2015 aerial) and is located in the Super Mix of Wisconsin Inc. mining operation. The aquatic resource is not a tributary feature and has no inlets or outlets that can be seen in photos and, therefore, the resource has no flow or connection to a downstream WOUS. The Wisconsin Wetland Inventory does not depict wetlands or waterways in the review area. The NRCS soils map indicates that the review area contains Gravel Pit (GP), Casco loam (CeC2, CeD2), Fox silt loam (FsB), and Warsaw silt loam (WhA) which are all upland soils. The non-jurisdictional determination for this mining pit is in accordance with the preamble 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.: waterfilled depression created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States. The mining operation continues at the site today. Therefore, the aquatic resource in the review area is not subject to Section 404 of the CWA.

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.
- If the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- Other (explain, if not covered above): The aquatic resource is an active mining pit and water-filled depression formed as a result of upland excavation. Sand and gravel has been excavated for sale and continues to be excavated by the landowner. This aquatic resource is not a WOUS as described by the 1986 Preamble in 33 CFR 328.3(e). 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: GRAEF
- 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 Quad: WI-Waterford
- USDA Natural Resources Conservation Service Soil Survey. Citation: Racine County
- 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): WDNR Water Surface Viewer
  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):

B. ADDITIONAL COMMENTS TO SUPPORT JD: The aquatic resource in the Super Mix of Wisconsin mining operation is a water-filled depressional area constructed in upland and used for gravel and sand extraction and is not a WOUS as described in Section II(B)(2).
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