

**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): 6/21/2019**

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2018-01711-SJW - North Clayton Ave  
AJD**

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

State: **Wisconsin** County/parish/borough: **Winnebago** City: **Village of Fox Crossing**

Center coordinates of site (lat/long in degree decimal format): Lat. **44.222238° N**, Long. **-88.521086° E**.

Universal Transverse Mercator: **Zone 16**

Name of nearest waterbody: **Unnamed Tributary to Mud Creek**

Name of watershed or Hydrologic Unit Code (HUC): **04030204 - Great Lakes Region**

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: **March 27, 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 includes two intrastate wetlands which are identified as Wetland 1 (0.03 acre) and Wetland 2 (0.18 acre) on the attached figure labeled MVP-2018-01711-SJW: Page 3 of 3. Wetland 1 and Wetland 2 do not maintain a surface connection, shallow subsurface connection, nor an ecological connection to a WOUS. The wetlands are not separated from other WOUS by man-made dikes, barriers or berms. The review area is comprised of an actively farmed agricultural field with a barnyard situated in the northeast portion of the site. The surrounding area is moderately dense residential. Surface water flows in a northeasterly direction through the review area and pools in Wetland 1 and Wetland 2. Based on a review of the data presented in the wetland delineation report by McMahon Associates, Inc., the Wisconsin Wetland Inventory mapping, and a review of aerial imagery from 04/23/1998 - 09/15/2013, the Corps has determined that Wetland 1 and Wetland 2 are isolated intrastate wetlands which do not maintain a surface connection to a downstream TNW. Wetland 1 and Wetland 2 are not/have not been utilized for interstate or foreign commerce, and these wetlands are not used by interstate or foreign travelers for recreation or other purposes. In addition, these wetlands do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce, and are not used for industrial purposes. Therefore, the Corps has determined that Wetland 1 and Wetland two are isolated features and are not regulated by the Corps under Section 404 of the Clean Water Act.**

**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**

<sup>1</sup> 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):

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: 0.21 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: McMahon Associates, Inc.
- 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-Oshkosh NE
- USDA Natural Resources Conservation Service Soil Survey. Citation: NRCS 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): Photos submitted as part of the wetland delineation report.  
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: