

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): May 13, 2019

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Foxconn Individual Parcels Area 1, MVP-2019-00029-MHK (Wetland 4 and Wetland 5a, 5b, 5c)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **WI** County/parish/borough: **Racine** City: **Mount Pleasant**
Center coordinates of site (lat/long in degree decimal format): Lat. **42.67324° N**, Long. **-87.91679° E**.
Universal Transverse Mercator: **Zone 16 (X 424878.86, Y 4724937.57)**

Name of nearest waterbody: **Pike River**

Name of watershed or Hydrologic Unit Code (HUC): **04040002**

- 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: **April 15 and 17, 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):¹

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: **The review area contains a roadside ditch system (Wetland 5a and Wetland 4) and two stormwater basins (Wetland 5b and 5c). The roadside ditches associated with Wetland 5a are located on the south side of Prairie View Drive and on both sides of East Prairie View Drive totaling 0.22 acre in size. This ditch system is a continuation of a right-of-way ditch (Ditch 8/ROW-W-23) which was determined to be non-jurisdictional (MVP-2017-04050-MHK, July 30, 2018). The roadside ditch associated with Wetland 4 is located on the west side of W. Prairie View Drive and is 0.04 acre in size. This ditch is a continuation of W-1 ditch which was determined to be non-jurisdictional on October 5, 2018 (MVP-2017-03856-MHK). Both ditch systems were constructed wholly in uplands and drain only uplands. These ditches do not have a relatively permanent flow of water and are not a water of the U.S. The determination of no jurisdiction for the ditches is in accordance with the preamble to the 1986 Corps Regulations (33 CFR Parts 320-330) and the 2008 Rapanos Guidance.**

The two stormwater basins were constructed in uplands between 2008 and 2010 and are both 0.02 acre in size. This was confirmed by reviewing aerial photos, 2018 TRC Environmental Corporation wetland delineation report, NRCS soil map, and Wisconsin Wetland Inventory. The jurisdictional determination for these stormwater basins 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.; 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.

SECTION III: CWA ANALYSIS

¹ Supporting documentation is presented in Section III.F.

- 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): **See Section II B(2).**

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: TRC Environmental Corporation "Foxconn Individual Parcels - Area 1" wetland delineation report November 12, 2018, revised November 30, 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 WI-Sturtevant
- 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): ground level photos and 2000, 2005, 2010, 2015, 2017 aerial photos in 2018 TRC delineation report
 - or Other (Name & Date): Google Earth 2000, 2002, 2005, 2006, 2007, 2008, 2010.
- Previous determination(s). File no. and date of response letter: MVP-2017-04050-MHK AJD dated July 30, 2018 for Ditch 3 (ROW-W-23); MVP-2017-03856-MHK AJD dated October 5, 2018 for W-1.

- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): Racine County GIS 2-foot contour map

B. ADDITIONAL COMMENTS TO SUPPORT JD: