

**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):** November 5, 2019

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** MVP-2018-03210-KAL

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

State: WI County/parish/borough: Calumet County City: Brillion

Center coordinates of site (lat/long in degree decimal format): Lat. 44.212797° N, Long. 88.148381° W.

Universal Transverse Mercator: 15T

Name of nearest waterbody:

Name of watershed or Hydrologic Unit Code (HUC): 0403020402

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: August 5, 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 drainage ditch totalling 0.11 acre on site is a man-made drainage feature that was constructed in uplands and drains uplands from the north. The drainage area was created sometime after May 1992 and has no identified inlets or outlets connecting it to WOUS. The drainage does not have a surface or shallow subsurface hydrologic connection to any navigable waters or their tributaries. The drainage is surrounded by farmed uplands, residential developments, has no swales, pipes or other means to connect it to a water of the U.S. (WOUS). We have determined that this ditch is not a water of the U.S.**

**We reviewed available desktop resources such as aerial photography, the flow path information, and stream and wetland mapping to make an approved non regulated waters determination of the ditch. We determined that the ditch has no hydrologic connection with a Navigable water of the U.S. the ditch does not support an ecological connection to a navigable water.**

**The drainage ditch does not support a link to interstate or foreign commerce because it is not known to be used by interstate or foreign travelers for recreation or other purposes; does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and is not known to be used for industrial purposes by industries in interstate or foreign commerce. The ditch does not have an ecological connection to other waters within the review area. This ditch was constructed in entirely in uplands and do not maintain a relatively permanent flow of water. In accordance with the Corps/EPA Memorandum regarding jurisdiction following Rapanos, this ditch is not a water of the United States.**

**SECTION III: CWA ANALYSIS**

**A. TNWs AND WETLANDS ADJACENT TO TNWs:** N/A

<sup>1</sup> Supporting documentation is presented in Section III.F.

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): **While the ditch may hold water during storm events, it does not carry a relatively permanent flow of water and does not drain a water of the United States. This ditch is not to be considered**

**Waters of the United States**

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:
- 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:
- USDA Natural Resources Conservation Service Soil Survey. Citation: **WebSoilSurvey**
- National wetlands inventory map(s). Cite name: **USFWS NWI Map**
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is:      (National Geodectic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): **ArcMap**  
or  Other (Name & Date): **Google Earth (historic)**
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): **Wisconsin Wetland Inventory Map**

B. ADDITIONAL COMMENTS TO SUPPORT JD: