

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 22, 2019

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Star Communications JD, MVP-2019-02269-KDZ

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Wisconsin** County/parish/borough: **Waupaca** City: **New London**
Center coordinates of site (lat/long in degree decimal format): Lat. **44.40971° N**, Long. **-88.73977° W**.
Universal Transverse Mercator: **Zone 16**

Name of nearest waterbody: **Embarrass River**

Name of watershed or Hydrologic Unit Code (HUC):

- 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: **October 31, 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: **A wetland delineation report was submitted to the Corps documenting the presence of aquatic resources within an approximately 1.1 acre review area located in the City of New London, Waupaca County, Wisconsin. The wetland delineation report included two wetland areas identified as Wetland 1 (0.18 acre) and Wetland 2 (0.046 acre) as shown on the attached figure labeled MVP-2019-02269-KDZ: Page 1 of 3.**

Wetland 1 and Wetland 2 are isolated depressions surrounded by a city street to the east, and commercial developments to the north and south. According to the NRCS Web Soil Survey (WSS), Wetland 1 and Wetland 2 are located in Wega silt loam (WeA) soil unit which is described as a non-hydric somewhat poorly drained soil with 0-3 percent slopes and a depth to water table of approximately 0-12 inches. A review of the Wisconsin Wetland Inventory mapping shows no mapped wetlands with the review area. The nearest RPW (Embarrass River) is situated approximately 0.3 mile east of the review area. No surface water features were identified within or near Wetland 1 and Wetland 2 which could potentially serve as a hydrologic connection to the the Embarrass River. Wetland 1 and Wetland 2 are surrounded by mapped uplands and are not separated from another WOUS by a man-made dike, barrier, or berm.

Based on a review of all available information including the wetland delineation report completed by Davel Engineering & Environmental Inc., Wisconsin Wetland Inventory Mapping, and aerial imagery dating back to 2008, the Corps has determined that Wetland 1 and Wetland 2 are closed depressions which do not maintain a surface or shallow subsurface hydrological connection or ecological connection to the Embarrass River or downstream TNW. Wetland 1 and Wetland 2 have not been utilized for interstate or foreign commerce, and the wetlands are not used by interstate or foreign travelers for recreation or other

¹ Supporting documentation is presented in Section III.F.

purposes. In addition, Wetland 1 and Wetland 2 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 2 are isolated wetlands that 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

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: 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: **Davel Engineering & Environmental, 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 New London**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Waupaca County 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 Geodectic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Google Earth 2008, 2013, 2015, 2017
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: