

**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 18, 2019

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** Zoromski Borrow Source, MVP-2019-02440-WMS

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

State: **Wisconsin** County/parish/borough: **Marathon County** City:

Center coordinates of site (lat/long in degree decimal format): Lat. **44.88199° N**, Long. **-89.42148° W**.

Universal Transverse Mercator: **16**

Name of nearest waterbody: **Little Eau Claire River**

Name of watershed or Hydrologic Unit Code (HUC): **07070002**

- 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 18, 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: **A delineation report was submitted to the Corps documenting the presence of aquatic resources on a 21.65-acre property proposed for a nonmetallic mining operation located in Marathon County, Wisconsin. The wetland delineation report identified 5 wetlands within the 21.65 project area during site visits on May 10 and 14, 2019. This jurisdictional determination is for Wetlands 2 thru 5 that have appeared to have formed after excavation activities ceased to generate borrow material for the STH 29 project in 1991. In the 1990 FSA aerial photo, the majority of the site appears to have been logged and the soil stripped as a borrow source. Earthwork activities are evident in the photo. Forest remains in the northeast corner of the site. The newly constructed STH 29 and associated on/off ramps are located immediately north of the site. From 1991 through 2017, the site appears to be periodically mowed or utilized as an agricultural hayfield. The Wisconsin Department of Natural Resources determined wetlands 2-5, and a portion of Wetland 1, to be artificial wetlands (September 25, 2019). Water filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel are generally not considered waters of the United States 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. Wetland 2 is 0.02 acres (818 square feet) of wet meadow wetland dominated by reed canary grass located in the northeast portion of the site. No features are mapped on the WWI. Wetland 3 is 2.19 acres of emergent/wet meadow wetland dominated by fox sedge and bluejoint grass located in the northwest portion of the site. No features are mapped on the WWI. Wetland 4 is 1.67 acres emergent/wet meadow wetland dominated by tussock sedge, fox sedge, and reed canary grass located in the southwest portion of the site. No features are mapped on the WWI. Wetland 5 is 0.25 acres (10,880 square feet) of emergent/wet meadow wetland dominated by green bulrush and fox sedge located in the southeast portion of the site. No features are mapped on the WWI. Wetlands 2-5 are located in depressional areas**

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

that do not have a surface or shallow subsurface water conveyance to other waters offsite, specifically to the Little Eau Claire River located 1-mile away to the south of the project site. Wetlands 2-5 are not adjacent (bordering, contiguous, or neighboring) to another WOUS and are not separated from other WOUS by man-made dikes or barriers, natural river berms, or beach dunes. Due to the distance between Wetlands 2-5 and the nearest waterbody there is no science-based inference that supports an ecological connection. Additionally, there is no link to interstate or foreign commerce and it is not used by interstate or foreign travelers for recreation or other purposes. Wetlands 2-5 do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce, and are not known to be used for industrial purposes by industries in interstate commerce. Therefore, the Corps has determined that the subject Wetlands 2-5 are hydrologically isolated 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

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: 4.13 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: GEI Consultants, 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: **7.5 Minute Quad**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Marathon 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 Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date):  
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:**