

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): 11/22/2019

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2019-02395-SJW - Moving Forward
AJD**

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Wisconsin** County/parish/borough: **Dane** City: **Village of Cottage Grove**

Center coordinates of site (lat/long in degree decimal format): Lat. **43.115528° N**, Long. **-89.198775° E**.

Universal Transverse Mercator: **Zone 16**

Name of nearest waterbody: **Koshkoning Creek**

Name of watershed or Hydrologic Unit Code (HUC): **07090002 - Upper Mississippi 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: **October 23, 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 approximately 15 acre review area includes one 0.68 acre intrastate wetland identified as "Wetland Area" as shown on the attached figure labeled MVP-2019-02395-SJW: Page 3 of 3. According to the NRCS Web Soil Survey (WSS) for Dane County, Wisconsin, the Wetland Area identified on Page 3 of the attached figures is situated in a St. Charles silt loam (ScB) soil unit which is described as a non hydric well drained soil with 2-6 percent slopes and a depth to water table of approximately 40 to 60 inches. A review of the Wisconsin Wetland Inventory shows no mapped wetlands within the review area. However, the data presented in the wetland delineation report completed by Breese and Associates indicates the delineated wetland meets wetland criteria for soils and hydrology, however hydrophytic vegetation was not identified as the wetland has been historically manipulated for the production of crops. Aerial imagery dating back to the year 2008 shows some evidence of wet signatures within the review area, however these features are sporadic and do not occur on an annual or semi annual basis. The delineated wetland within the review area is depressional and does not maintain a surface or shallow subsurface hydrologic connection or ecological connection to a downstream TNW, nor is it separated from another WOUS by man-made dikes, barriers or berms. In addition, this wetland is surrounded entirely by mapped upland, with the nearest RPW located approximately 0.9 mile from the review area. Based on a review of the data presented in the wetland delineation report submitted by Breese and Associates, the Wisconsin Wetland Inventory mapping, and a review of aerial imagery dating from 2008-2017, the Corps has determined that the feature identified as "Wetland Area" in the review areas is an isolated intrastate water which does not maintain a surface connection or shallow subsurface connection to a downstream TNW. This wetland is not/has not been utilized for interstate or foreign commerce, and this wetland is not used by interstate or foreign travelers for recreation or other purposes. In addition, this wetland does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce, and is not used for**

¹ Supporting documentation is presented in Section III.F.

industrial purposes. Therefore, the Corps has determined that the wetland identified as "Wetland Area" on the attached figure labeled MVP-2019-02395-SJW: Page 3 of 3 is an isolated feature that is 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: 0.68 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: **Mark Seidl - Pinnacle Engineering**
- 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-Cottage Grove**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Dane County**
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): **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: