

**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):** October 21, 2019

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** 2019-01589-JRS (USPS Oak Creek Facility)

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

State: Wisconsin County/parish/borough: Milwaukee City: Oak Creek

Center coordinates of site (lat/long in degree decimal format): Lat. 42.9278° N, Long. -87.8850° E.

Universal Transverse Mercator:

Name of nearest waterbody: Unnamed

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: September 25, 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: **Wetlands located in the review area (Labeled: A, D, E, F, G, H) are isolated features and are not considered Waters of the US. The wetlands were identified in a wetland delineation completed by WSP USA, Inc dated June 2019. These features were previously determined to be isolated, and not WOUS, by the Corps on October 3, 2008. The updated delineation report resulted in slightly different wetland boundaries. The revised boundaries did not result in identification of any surface water connections to downstream waters. Review of aerial photography (Google Earth 1999-2018) indicates the wetlands are depressional features that do not have a surface or subsurface connection to any other water. These wetlands do not border, are not neighboring to or contiguous with another water of the US. They are not separated from another water of the US by man-made barriers, dikes or berms. Due to existing and surrounding land use (agriculture, residential and commercial development) and proximity to other waters, there is no ecological connection to other wetlands or waters. These aquatic resources do not support a link to interstate or foreign commerce; are not known to be used by interstate or foreign travelers for recreation or other purposes; 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 Wetlands A, D, E, F, G, H are not regulated by the Corps under Section 404 of the Clean Water Act.**

The review area also includes one settling pond constructed in uplands in 2011 (labeled as Wetland B) and is approximately 0.42 acre in size. This pond was constructed in anticipation for development that did not occur. Man-made features such as check dams and riser pipes are located within the constructed pond. This pond was not present in the original 2008 delineation referenced above. Pursuant to 33 CFR Part 328.3(c); artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water

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

and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing are not waters of the United States.

**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): **Wetland B: 0.42 acre, Man-made stormwater feature constructed in uplands**

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: Wetland A: 0.58 acre, Wetland D: 1.28 acre, Wetland E: 0.07 acre , Wetland F: 0.02 acre, Wetland G: 0.02, Wetland H: 0.01 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: **Google Earth**
- USDA Natural Resources Conservation Service Soil Survey. Citation:
- 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): **Google Earth: 1999-2018**  
or  Other (Name & Date):

- Previous determination(s). File no. and date of response letter: 2008-01140, October 3, 2008
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):.

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**