

**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):** January 31, 2020

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** Enbridge Energy, Slope 18, 2020-00064-WMS

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

State: WI County/parish/borough: Ashland City:

Center coordinates of site (lat/long in degree decimal format): Lat. 46.526532° N, Long. -90.604473° W.

Universal Transverse Mercator: 15N

Name of nearest waterbody: Demonie Creek

Name of watershed or Hydrologic Unit Code (HUC): 04010302

☒ 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: January 31, 2020

☐ 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.

**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

☒ Other: (explain, if not covered above): **The review area for this jurisdictional determination is limited to Slope 18 as shown on the attached Figure 2020-00064-WMS, Page 2 of 2. Slope 18 is an erosional feature that does not have a relatively permanent flow of water and lacks physical indicators of an ordinary high water mark. Therefore, Slope 18 is not a Water of the United States.**

**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: 7.5 Minute Quadrangle - Sanborn
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: USDA-NRCS Ashland County Soil Survey

#### Geographic (SSURGO)

- ☐ 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): NAIP 2018
  - or ☒ Other (Name & Date): Site photos November 19, 2019
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): Site visit on September 26, 2019.

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** The review area for this jurisdictional determination is limited to Slope 18 as shown on the attached Figure 2020-00064-WMS, Page 2 of 2. A drainage feature beginning at the outlet of a beaver pond above flows down through an eroded slope, known as Slope 18, to an intermittent tributary to Denomie Creek located below. Rapanos Guidance specifically calls out some features that are generally not Waters of the United States. This includes erosional features like gullies or washes that do not carry a relatively permanent flow of water, are not tributaries, and do not have a significant nexus to downstream Traditional Navigable Waterways (TNWs). Based on a review of available information, Slope 18 appears to be an erosional feature that does not have a relatively permanent flow of water and lacks physical indicators of an ordinary high water mark. Therefore, Slope 18 is not a Water of the United States.