

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): February 15, 2023

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: North Taylor Drive Property, City of Sheboygan (Wetlands W-1, W-2, W-3, W-4, & W-5) / 2015-01086-JLK

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Wisconsin County/parish/borough: Sheboygan City: Sheboygan

Center coordinates of site (lat/long in degree decimal format): Lat. 43.76523° N, Long. -87.74666° E.

Universal Transverse Mercator: Zone 16

Name of nearest waterbody: Pigeon River

Name of watershed or Hydrologic Unit Code (HUC): Sheboygan River-Frontal Lake Michigan (04030101)

- ☒ 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 10, 2023
☐ 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: **Based on a review of aerial photography, topographic maps, Lidar data, and the wetland delineation report submitted by the requestor, we have determined that Wetlands W-1, W-2, W-3, W-4, and W-5 are isolated wetland depressions with boundaries that transition into uplands. As depicted in current and historical aerial imagery, the wetland signatures observed within the delineated wetland features do not extend outside of the wetland boundaries and are surrounded entirely by uplands. Wetlands W-1, W-2, W-4, and W-5 include a grassy field in all directions while Wetland W-3 is located in the central/eastern portion of the review area and is surrounded by wooded areas, residential development, and a stormwater pond. Paved roadways are located in all directions, residential development further north and east, commercial development further south, and a sports complex further west. There is a slight elevation change running along the majority of the wetland boundaries, as shown with lidar data provided by the National Regulatory Viewer and USGS topo maps, suggesting water collects and remains within the wetland boundaries and the stormwater pond to the northeast.**

The delineated map shows Wetland W-3 extends outside of the review area to the east to immediately adjacent residential development. A review of aerial photos and Lidar data show Wetland W-3 boundaries transition to uplands associated with the existing development. Additionally, the delineated map shows Wetland W-3 extends outside of the review area towards a manmade stormwater pond to the northeast. Historical aerial photos show this pond was constructed sometime before 2003 and Lidar data shows a clear and graded increase in elevation around the entire pond. A review of aerial photos suggest Wetland W-3 may reach the boundaries of this pond and inlets/outlets are present on the west and east sides of the pond. However, no data is available that show where water goes once it enters these paths and flow cannot be traced to a downstream Water of the US. Lidar data and ground-level photos do show a roadside ditch

¹ Supporting documentation is presented in Section III.F.

running parallel to the south side of Geele Avenue west of the pond. However, the easternmost end of this ditch transitions to uplands involving a berm-like feature that separates the ditch from the pond. The WI Surface Water Data Viewer shows the nearest mapped aquatic resource is the Pigeon River located approximately 0.83 mile to the northwest of the review area. Based on this information, Wetland W-3 is ecologically separated from Pigeon River to the northwest.

Wetlands W-1, W-2, W-4, and W-5 do not abut and are not separated from any waters of the U.S. by natural or man-made features. A review of historical aerial photos indicates all surrounding areas have been an urban landscape since before 1992. Based on this information, Wetlands W-1, W-2, W-4, and W-5 are also ecologically separated from all other aquatic resources.

The above mentioned aquatic resources do not support a link to interstate 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 W-1, W-2, W-3, W-4, and W-5 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: Wetlands W-1, W-2, W-3, W-4, & W-5: Totaling 3.71 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: raSmith, 2022 Wetland Delineation
- ☒ 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:

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B. ADDITIONAL COMMENTS TO SUPPORT JD: