

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): 11/30/2022

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: 2014-03947-TKO

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **WI** County/parish/borough: **Kenosha** City: **Bristol**

Center coordinates of site (lat/long in degree decimal format): Lat. **42.5591° N**, Long. **-87.9679° E**

Universal Transverse Mercator: **16**

Name of nearest waterbody: **Unnamed tributary to the Root River**

Name of watershed or Hydrologic Unit Code (HUC): **07120004**

☒ 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: **11/07/2022**

☐ 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 review area includes one wetland, labeled Wetland 3 (0.22 acre). This wetland is isolated based on a review of the August 2022 Heartland Ecological Group, Inc. delineation report and other materials, including USGS soils, National and WI State Wetland Inventory, WI DNR DEM and Hillshade, Google Earth aerial photos, and historic aerial imagery. Based on the delineation report and topographic contours, this wetland is located within a depressional feature in an upland setting and does not have any inlets or outlets. There are no surface or shallow subsurface connections to downstream waters, confirmed by reviewing the above-mentioned resources.**

Wetland 3 is a farmed wetland that sits in an agricultural field. The wetland sits in a slight valley between higher elevations to the east, northeast and southwest, collecting water during precipitation events. It is a depressional wetland with boundaries that transition into uplands in the east, northeast and southwest. Topography gradually slopes down to the northwest and south, but no discrete connections to other water exist. This is evident while viewing WI DNR DEM and hillshade layers and confirmed by field observations noted in the delineation report. The nearest downstream water is the Root River, approximately 1,150 feet to the south.

The wetland does not border, is not neighboring to or contiguous with another water of the US. It is not separated from another water of the US by man-made barriers, dikes or berms. Due to existing and surrounding land use (disturbed upland in residential, and agricultural use) and proximity to other waters, there are no ecological connections to other wetlands or waters. This aquatic resource does 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; does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and is not known to be used for industrial purposes by industries in interstate

¹ Supporting documentation is presented in Section III.F.

commerce. Therefore, the Corps has determined that Wetland 3 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: 0.22 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: August, 2022 Heartland Ecological Group, Inc. Delineation Report
- ☒ 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: 1:24,000 Kenosha County Quad
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Kenosha County
- ☒ National wetlands inventory map(s). Cite name: NWI usgs.gov
- ☒ State/Local wetland inventory map(s): WI Wetland Inventory
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): Google Earth 2000-2021; Historicalaerials.com 1955-2018
or ☐ Other (Name & Date): Ground level photos, 2022 Delineation Report

- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): WI DNR DEM and Hillshade viewed on NRV

B. ADDITIONAL COMMENTS TO SUPPORT JD: