

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): May 7, 2020

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: 2019-02717-WMS, City of Ashland - Timeless Timber Property

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

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

Center coordinates of site (lat/long in degree decimal format): Lat. 46.602462° N, Long. -90.854228° W.

Universal Transverse Mercator: 15N

Name of nearest waterbody: Lake Superior

Name of watershed or Hydrologic Unit Code (HUC): 04010301

☒ 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: April 8, 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.

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 for this jurisdictional determination involves a site that was historically utilized for commercial and industrial operations. The previous infrastructure consisted of a large industrial complex, storage units, and an expansive parking area was recently demolished, along with extensive grading and disturbance of the ground surface. The northern portion of the review area is therefore largely devoid of established vegetation. The southern portion of the review area consists of dense scrub-shrub vegetation with formerly graded and filled railroad beds extending from north to south. Constructed drainage swales and spoil piles were also identified, along with various industrial equipment and debris deposited throughout the southern portion of the Site.**

Four (4) wetlands totaling approximately 1.60 acres were identified within the review area. Wetland A is 0.55 acres and is located within the northwest portion of the review area. Wetland A is located within a heavily disturbed and recently graded area and consists of several microtopographic depressions and a long linear drainage-way that runs from north to south along an established building pad. Wetland B is 0.01 acres and is located within the western portion of the review area. Wetland B is located within a heavily disturbed and recently graded area with large microtopographic depressions that were likely excavated adjacent to a former building pad. Wetland C is 0.34 acres and is located within the southwest portion of review area. Wetland C is located in an area that has been recently disturbed and appears to collect excess stormwater runoff due to that disturbance. The excess stormwater pools within the northern portion of the wetland before overflowing and entering a long linear drainage channel that occurs on both sides of what appears to be a formerly graded and filled railroad bed, which can be observed on aerial imagery. In accordance with the preamble to the 1986 Corps Regulations (33 CFR Parts 320-330), the

¹ Supporting documentation is presented in Section III.F.

Corps does not generally consider water filled depressions created in dry land incidental to construction activities to be waters of the United States.

Wetland D is 0.70 acres and is located in the southern portion of the review area. Wetland D consists of multiple long linear drainage channels that occur on both sides of formerly graded and filled railroad bed, which can be observed in historic aerial imagery. The linear ditch features were constructed in uplands, do not convey relatively permanent flow, and do not laterally drain a wetland or another water of the United States. These ditches are not part of a re-located stream and were constructed to convey stormwater. Per Rapanos guidance these types of drainage ditch features 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): **Preamble waters**

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 (0.55), Wetland B (0.01), Wetland C (0.34), Wetland D (0.70) 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: 7.5 Minute Quadrangle - Ashland, WI

- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Ashland County Soil Survey
- ☐ 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): 1992, 1998, 2005, 2016
- or ☒ Other (Name & Date): Site Photos included in Delineation Report
- ☐ 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: