

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): June 14, 2019

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Coleman Norris Property AJD
2019-00158-KJH

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Wisconsin County/parish/borough: Waukesha County City: Pewaukee

Center coordinates of site (lat/long in degree decimal format): Lat. 43.045988° N, Long. -88.196178° W.

Universal Transverse Mercator: 16; x:402523.42, y:4766586.61

Name of nearest waterbody: Fox River

Name of watershed or Hydrologic Unit Code (HUC): Upper Fox (07120006)

☒ 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: May 3, 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):¹

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **This JD is for seven aquatic features identified as Wetland 1 (W-1) 0.07 acre in size, Wetland 2 (W-2) 1.65 acre in size, Wetland 2A (W-2A) 0.24 acre in size, Wetland 3 (W-3) 0.11 acre in size, Wetland 4 (W-4) 0.45 acre in size, Wetland 5 (W-5) 0.02 acre in size, and Wetland 6 (W-6) 0.02 acre in size, which are located within depressions. The isolated wetlands are approximately 500 feet from the nearest jurisdictional water of the United States. There is no natural or man-made discrete and/or confined surface water connection between the wetlands and any other jurisdictional waters, nor is there a shallow subsurface connection to any other jurisdictional water. The wetlands do not border, neighbor, or are contiguous with another water of the U.S., nor are they separated from other water of the U.S. by man-made dikes, barriers, or berms. The wetlands are not located in the mapped 100 year floodplain of a jurisdictional water. Therefore, during times of heavy precipitation there is a very low probability that floodwater would reach an elevation necessary for water to flow from other jurisdictional waters into the wetlands. Based on a review of the USGS Quadrangle Sheet, the wetlands based on their landscape position do not appear to be part of a recognizable hydrologic system. The wetlands do not cross any state boundary and do not have a use which would associate them with interstate commerce. The wetlands do not support a link to interstate or foreign commerce because they are not known to be used by interstate travelers for recreation or other purposes; they do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and they are not known to be used for industrial purposes in interstate or foreign commerce. In consideration of the January 2, 2001, United States Supreme Court decision, Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers, we have determined that W1, W2, W2A, W3, W4, W5 and W6 are isolated and non-jurisdictional under Section 404 of the CWA.**

¹ Supporting documentation is presented in Section III.F.

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: 2.55 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: Heartland Ecological-Eric Parker
- ☒ 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: 1:24k Quad WI - Waukesha
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: NRCS Web 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): Google Earth 2018, 2015, 2014, 2011, 2010, 2008, 2006, 2002, and 2000
or ☒ Other (Name & Date): Wisconsin Historic Aerial Imagery Finder 1937
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:

☒ Other information (please specify): 2007 Wetland Delineation Report by Natural Resources Consulting (Brian Kareczewski) ORM Number 2008-00874-DJP. 2006 Wetland Delineation Report by Natural Resources Consulting (Brian Kareczewski) ORM Number 2008-00873-DJP.

B. ADDITIONAL COMMENTS TO SUPPORT JD: