

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): NOV 01 2018

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: 124th & Edgerton Avenue, MVP-2015-04408-ANM

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: WI County/parish/borough: Milwaukee City: Greenfield
Center coordinates of site (lat/long in degree decimal format): Lat. 42.953098° N, Long. -88.067527° W.
Universal Transverse Mercator: Zone 16 (X 412921.100091, Y 4756159.178782)

Name of nearest waterbody: Root River

Name of watershed or Hydrologic Unit Code (HUC): Great Lakes Region (04040002)

- ☒ 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: September 27, 2018
☐ 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 approximately 13.4-acre review area contains three intrastate wetlands (Wetland 1, 2, and 3). Wetlands 1, 2 and the western half of Wetland 3 were described in the 2015 Wetlands & Waterways LLC wetland delineation report. The eastern half of Wetland 3 was described in the 2018 Heartland Ecological Group wetland delineation report. The wetlands are located northeast of the 124th and Edgerton intersection and the nearest waterbody is an unnamed tributary of the Root River, located approximately 1300 feet south of Wetland 1. Wetland 1 is a 0.749-acre fresh wet meadow, shrub-carr, hardwood swamp wetland complex that consists of a northern portion connected to a southern portion by a narrow ditch. The delineation report shows a culvert on the western side of Wetland 1 that appears to extend under S. 124th Street, but does not provide a hydrological connection to another WOUS. Wetland 2 is a 0.02-acre hardwood swamp and Wetland 3 is a 4.34-acre fresh wet meadow, shrub-carr, hardwood swamp wetland complex. No visible inlets or outlets to Wetlands 2 and 3 can be seen in any of the aerial photos reviewed from 1937 to 2018.

Wetlands 1, 2, and 3 are isolated with no surface or shallow subsurface connection to jurisdictional waters. They are not bordering, neighboring or contiguous with another water of the U.S. and are not separated from other WOUS by man-made dikes, barriers, or berms. The surrounding land use is dominated by residential development, with some commercial development throughout. The disturbance of surrounding land uses precludes an ecological connection to a WOUS. These wetlands do 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; 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.

¹ Supporting documentation is presented in Section III.F.

Therefore, the Corps has determined that Wetlands 1, 2, and 3 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: W1 (0.75 acre), W2 (0.02 acre), and W3 (4.34 acre) total is 5.11 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.

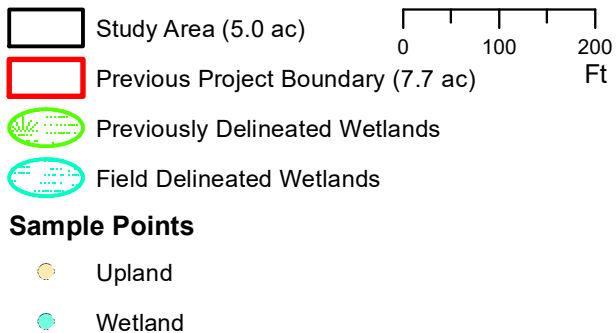
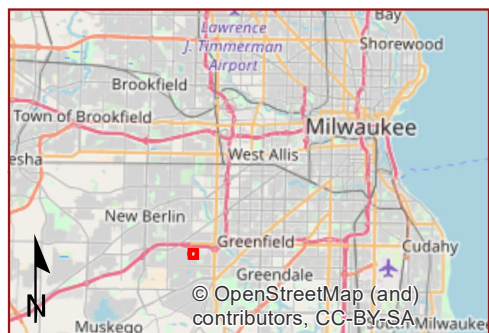
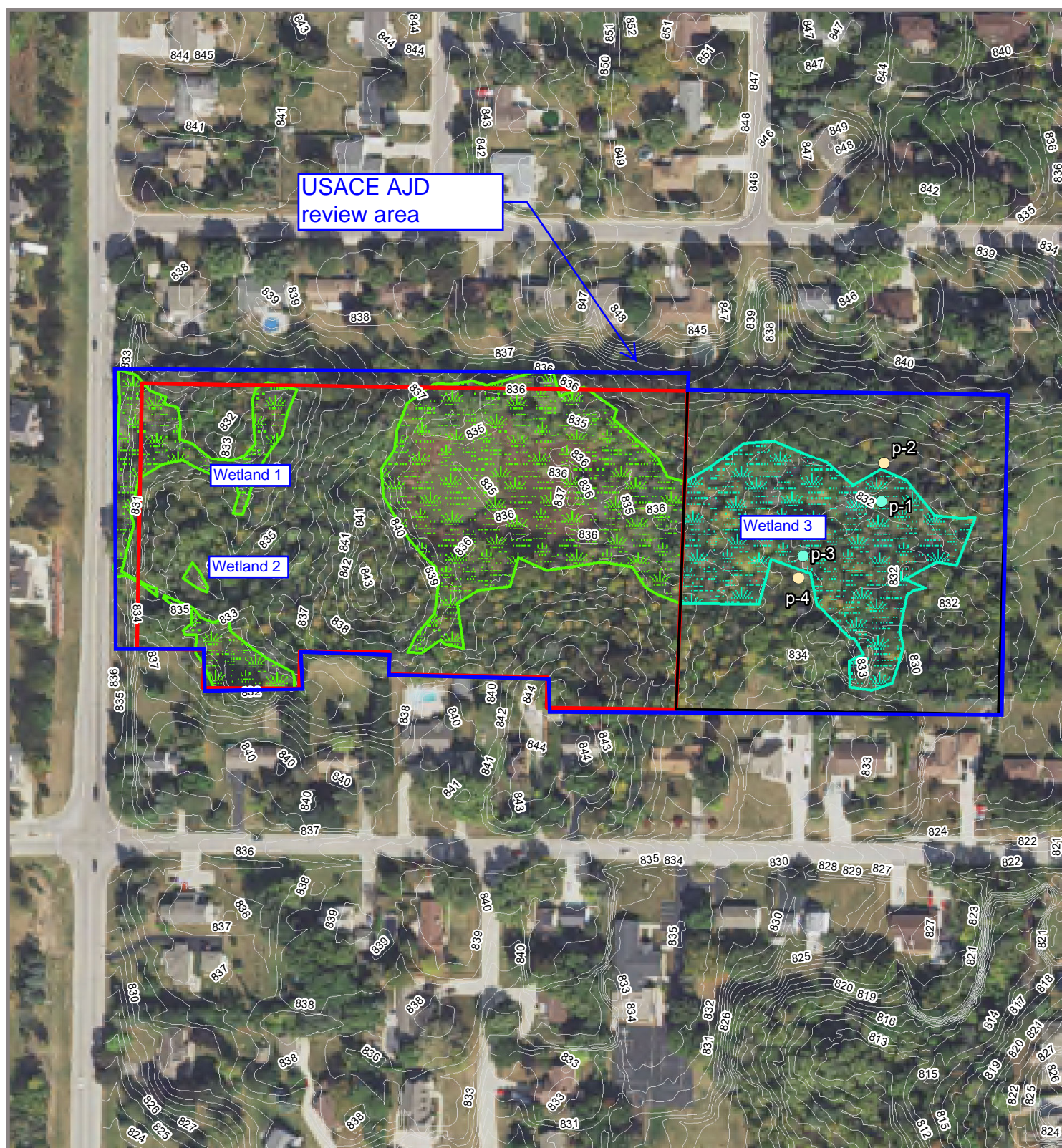
SECTION IV: DATA SOURCES.

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: 2015 Wetlands & Waterways LLC wetland delineation report and 2018 Heartland Ecological Group Inc wetland 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: 1:24K WI-Hales Corners
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Milwaukee County
- ☐ National wetlands inventory map(s). Cite name:
- ☒ State/Local wetland inventory map(s): Surface Water Data Viewer
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): 2018 Google Earth aerials & 1937, 1951, 1963, 1970, 1975, 1980, 1990, 2000, 2005, 2010, 2013, 2015, and 2018 Milwaukee county aerials

- or ☒ Other (Name & Date): Ground level photos in delineation reports and Google Earth
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): Milwaukee County topographic and hydrography lines maps

B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetlands 1, 2, and 3 are hydrologically isolated and have no surface connection to any water of the United States.



Heartland
ECOLOGICAL GROUP INC

Figure 5. Field Delineated Wetlands

124th & Edgerton St
Project #20180080
T6N, R21E, S30
C Greenfield, Milwaukee, WI

NAIP Year 2017
Data: DOMI Dev., HEG 8/22/2018