

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): November 1, 2022

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Donbea Street Property, Village of Bellevue (Wetland A) / 2022-01424-JLK

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Wisconsin** County/parish/borough: **Brown** City: **Bellevue**
Center coordinates of site (lat/long in degree decimal format): Lat. **44.47265° N**, Long. **-87.98473° E**.
Universal Transverse Mercator: **Zone 16**

Name of nearest waterbody: **Unnamed Tributary of the East River**

Name of watershed or Hydrologic Unit Code (HUC): **Northwestern Lake Michigan (04030102)**

- ☒ 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 1, 2022**
☒ Field Determination. Date(s): **September 30, 2022**

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, and the wetland delineation report submitted by the requestor, we have determined that Wetland A is an isolated wetland depression with boundaries that transition into uplands.**

As depicted in current and historical aerial imagery, the wetland signatures observed within Wetland A of the delineated wetland feature does not extend outside of this wetland and is surrounded entirely by uplands including a fallow field to the east, southeast, and south, a roadway to the north/northeast, and commercial development to the west. Further beyond the uplands, additional commercial development with manicured lawns are located to the north and east and the nearest mapped tributary is an unnamed tributary of the East River approximately 0.04 mile to the south/southeast of Wetland A. In addition, the review area is predominantly flat with no change in elevation, as shown in the USGS topo maps. This suggests water collects within the review area and does not leave the delineated wetland boundaries.

A review of LiDAR images suggest a swale-like feature may be present that serves as a hydrological connection between Wetland A and the tributary further south. A site visit was completed by the Corps PM on September 30, 2022 that confirmed a swale-like feature was present approximately 55 feet south of the southernmost boundary of Wetland A. However the swale feature transitioned into uplands moving northward and did not extend any closer to Wetland A. The area between the swale and Wetland A consisted of an obvious increase in elevation and a bare upland forest floor with dense canopy. This confirms the swale no longer serves as a discrete or confined connection. Therefore, Wetland A does not abut and is not separated from any waters of the U.S. by natural or man-made features. A review of

¹ Supporting documentation is presented in Section III.F.

historical aerial photos indicates the review area was in agricultural production until 2009 when it was left fallow.

The above mentioned aquatic resource does not support a link to interstate foreign commerce; is 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 commerce. Therefore, the Corps has determined this aquatic feature 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: Wetland A: Totaling 0.68 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: Bates Soil & Water Testing Services, LLC., 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:
- ☐ 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:
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Brown County
- ☐ 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): **2022 Wetland Delineation Report**
or ☒ Other (Name & Date): **Ground level photos**
- ☐ 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: