

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): October 19, 2022

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Lot 2 CSM 5954, Town of Grand Chute (Wetland 1) / 2022-00985-JLK

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Wisconsin County/parish/borough: Outagamie City: Grand Chute
Center coordinates of site (lat/long in degree decimal format): Lat. 44.295567° N, Long. -88.485836° E.
Universal Transverse Mercator: Zone 16

Name of nearest waterbody: Unnamed Tributary of Bear Creek

Name of watershed or Hydrologic Unit Code (HUC): Northwestern Lake Michigan (04030202)

- ☒ 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: July 1, 2022
☒ Field Determination. Date(s): July 1, 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, a site visit, and the 2015 wetland delineation report submitted by the requestor, we have determined that Wetland 1 is an isolated wetland depression with boundaries that transition into uplands. As depicted in current and historical aerial imagery, the wetland signatures observed within the delineated wetland feature does not extend outside of the wetland and is surrounded entirely by uplands including open grassy areas, residential development and a forested area to the north, paved roadways to the west and south, and additional residential development to the east. In addition, the review area is predominantly flat throughout, as shown in the USGS topo maps.**

Wetland 1 does not abut and is not separated from any waters of the U.S. by natural or man-made features. The nearest mapped tributary is an unnamed tributary to Bear Creek located approximately 0.10 mile north of the review area. A review of historical aerial photos indicate the roadways to the west and south were present before 1938 while the remaining surrounding areas were in agricultural production with the exception of the area immediately north which was left fallow. At some point prior to 1980, residential development can be seen to the east, while the single family residence to the north was constructed sometime before 2000. The open portion of the review area remained in agricultural production until about 2014 when it was then left fallow. The Corps PM visited the site on July 1, 2022 and determined all wetlands on site transition to uplands involving mowed grassy areas and the forested area in the northwestern portion of the review area. The eastern boundary of the review area is confined via a previously constructed berm (historical aerial photos suggest this berm was constructed soon after the 2015 delineation report was completed, sometime between 2015-2017) running north to south along the property

¹ Supporting documentation is presented in Section III.F.

line. This berm along with the open grassy areas, serve as effective upland barriers between the review area and the neighboring property to the east. While walking the wetland boundaries toward the northern portion of the review area, the Corps PM observed the wetland still transition to uplands involving the forested area, a previously constructed access road, and manicured lawns further north in the adjacent property. Based on this information, Wetland 1 is ecologically separated from all other aquatic resources.

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 1: Totaling approximately 2.50 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: Martenson & Eisele, Inc., 2015

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: **Outagamie 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): **Photos via Google Earth, Outagamie County GIS**
or ☒ Other (Name & Date): **Ground level photos taken July 1, 2022**
- ☐ 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: