

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): April 26, 2019

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: City of Blair / Lake Henry Dredging, MVP-2019-00553-DJM

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Wisconsin** County/parish/borough: **Trempealeau County** City: **Blair**
Center coordinates of site (lat/long in degree decimal format): Lat. **44.299381° N**, Long. **-91.225092° W**.
Universal Transverse Mercator: **Zone 15**

Name of nearest waterbody: **Trempealeau River**

Name of watershed or Hydrologic Unit Code (HUC): **07040005**

- 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 25, 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: **The review area contains 9 wetlands (Wetlands 1-9) totaling approximately 53.43 acres in size. This jurisdictional Determination form is for Wetlands 6 (8.61-acre), 7 (14.78-acre), and 8 (22.44-acre) only. Wetlands 6, 7, and 8, which are currently owned by the City of Blair, were designed and constructed with enclosed berms to function as whey ponds for wastewater treatment for a cheese processing plant. Information provided within the permit application, the 2018 Wetland Delineation Report, and USGS Topo maps indicate that the subject ponds are contained completely within contour lines and have no relatively permanent flow of water. Per 33 CFR 328.3, waste water treatment lagoons 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

¹ Supporting documentation is presented in Section III.F.

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): **The review area identified on the enclosed figures contains 9 delineated wetlands. Wetlands 6, 7, and 8 for which this form has been prepared were designed and constructed with enclosed berms to function as whey ponds for wastewater treatment for a cheese processing plant. The subject ponds were designed and constructed to function solely as settling ponds. While the ponds may hold water during storm events, they are contained completely within contour lines and have no relatively permanent flow of water and do not drain a water of the United States. Per 33 CFR 328.3, waste water treatment lagoons are not Waters of the United States and therefore the subject ponds should not be considered Waters of the United States.**

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: 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: 1.72 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: **October 15, 2018 Wetland Delineation Report prepared by Short Elliot Hendrickson, Inc.**
- 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 (Blair)**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Trempealeau County Soil Survey**
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): **Google Earth Aerial Maps 21-APR-1998, 24-APR-1999, 3-NOV-2004, 2-SEP-2005, 13-SEP-2006, 8-SEP-2008, 8-NOV-2010, 24-JUL-2001, and 28-SEP-2015.**
 - or Other (Name & Date):
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): **WDNR Surface Water Data Viewer**

B. ADDITIONAL COMMENTS TO SUPPORT JD: