

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): 10 April 2019

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2015-03945-JMB

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Wisconsin** County/parish/borough: **Kenosha** City: **Kenosha**

Center coordinates of site (lat/long in degree decimal format): Lat. **42.61493° N**, Long. **-87.96946° W**.

Universal Transverse Mercator:

Name of nearest waterbody: **unnamed tributary to Kilbourn Road Ditch**

Name of watershed or Hydrologic Unit Code (HUC): **07120004 (8-digit HUC)**

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: **6 March 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: **Wetland M (approximately 0.24 acres) is located in a slightly concave depression surrounded by cropland; a small portion of the wetland extends to the north and is described as a drainage swale. The wetland is located approximately 0.15 miles from an unnamed stream that flows east towards Kilbourn Road Ditch (WBIC 736900). A review of available resources confirmed the wetland is located within an enclosed depression that has no surface water connections; this included aerial imagery dated 2008, 2013, 2015, 2017, and LiDAR contours. The wetland does not have any unbroken surface or shallow subsurface connections to the unnamed stream and is not mapped within the 100-year flood plain. The wetland is not adjacent (bordering, contiguous, or neighboring) to any other WOUS and is not separated from other WOUS by man-made dikes or barriers, natural river berms, or beach dunes. Due to the distance between this wetland and the nearest tributary there is no science-based inference (ex. does not support life cycles of amphibians or anadromous and catadromous fish) that supports an ecological connection. Additionally, there is no link to interstate or foreign commerce and they are not used by interstate or foreign travelers for recreation or other purposes. This wetland does 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. Therefore, the Corps has determined that Wetland M is hydrologically isolated and 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

¹ Supporting documentation is presented in Section III.F.

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: 0.24 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):

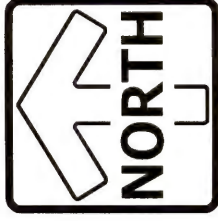
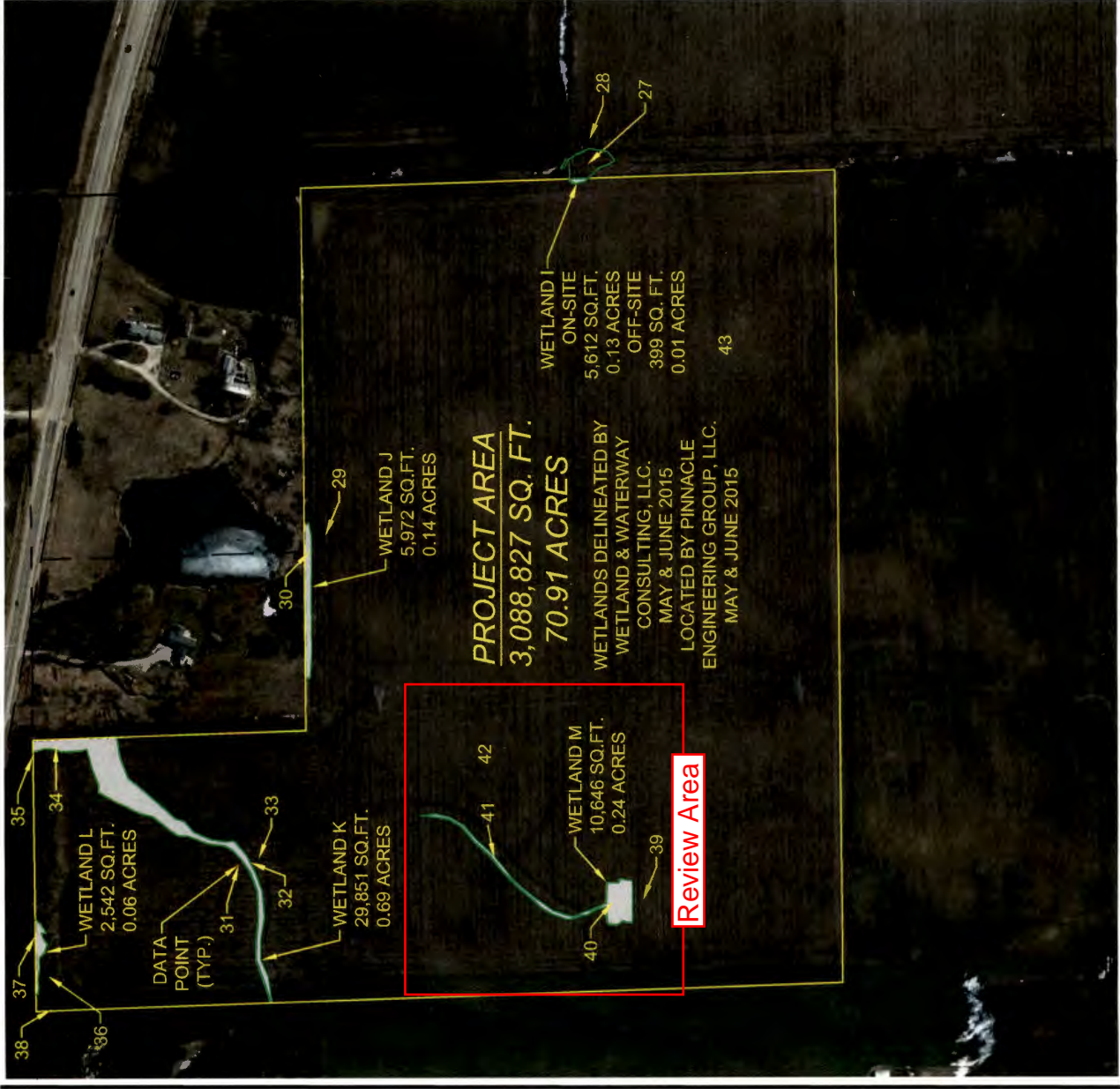
- Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

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: **Project plans and delineation report submitted by Pinnacle Engineering Group on 10/15/2018 (updated 2/28/2019).**
- 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 - Paris**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **NRCS Soils Data**
- 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): **Aerial imagery review from Surface Water Data Viewer**
or Other (Name & Date): **Photos included in wetland delineation report dated 7/21/2015**
- 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: The Corps has determined that the Wetland M onsite is hydrologically isolated, and is therefore not regulated by the Corps under Section 404 of the Clean Water Act



GRAPHICAL SCALE (FEET)



BRIDGE - KENOSHA, WI - WETLAND EXHIBIT NORTH 09/21/15

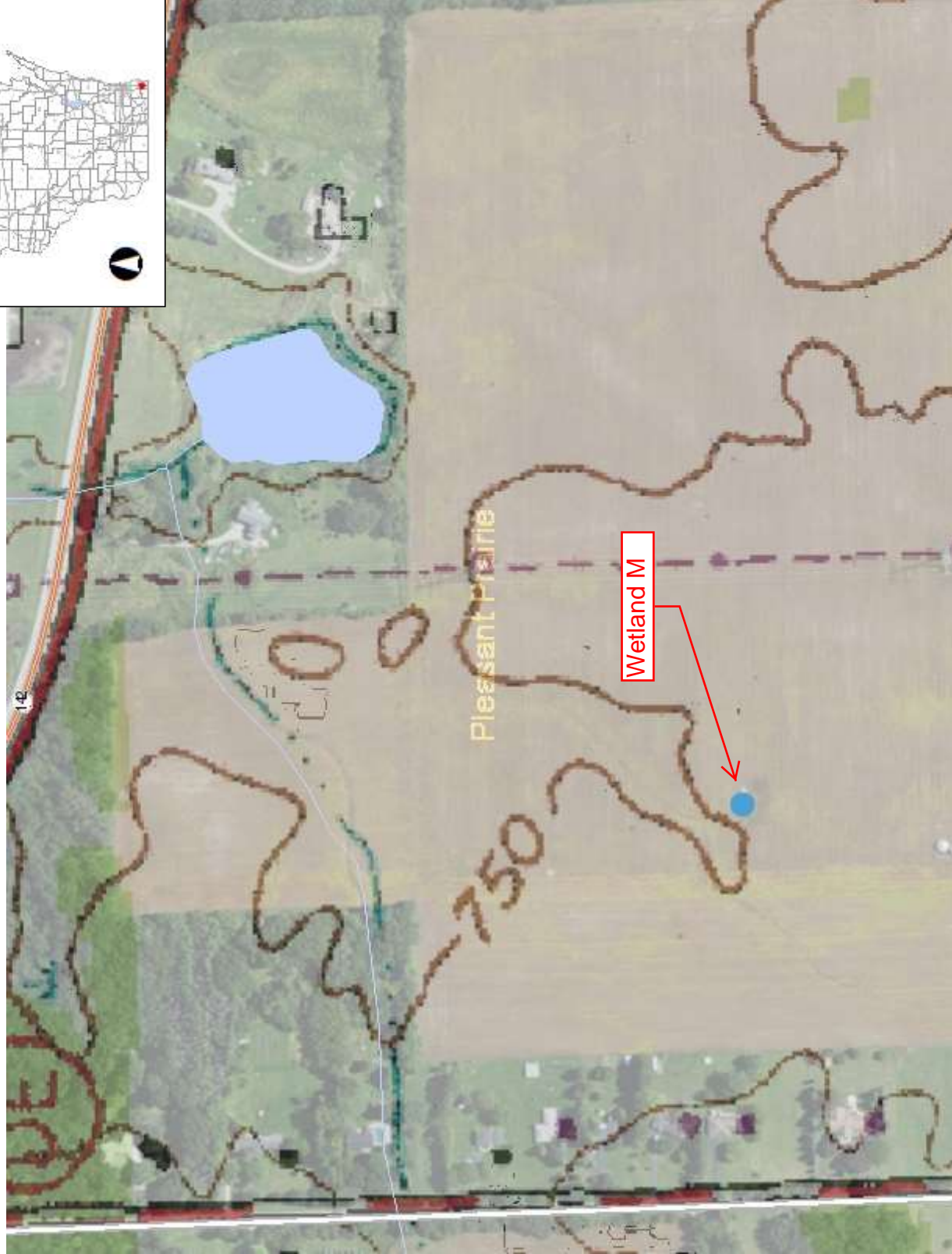
PINNACLE ENGINEERING GROUP **PLAN | DESIGN | DELIVER**

15850 W. BLUEMOUND ROAD | SUITE 210 | BROOKFIELD, WI 53005

WWW.PINNACLE-ENGR.COM | PEG PEG.JOB#153.00WI



Surface Water Data Viewer Map



- Legend**
- Municipality
 - State Boundaries
 - County Boundaries
 - Major Roads
 - Interstate Highway
 - State Highway
 - US Highway
 - County and Local Roads
 - County HWY
 - Local Road
 - Railroads
 - Tribal Lands
 - Rivers and Streams
 - Intermittent Streams
 - Lakes and Open water
 - 24K USGS Quad Index - Level 7 - 16

Notes

DISCLAIMER: The information shown on these maps has been obtained from various sources, and are of varying age, reliability and resolution. These maps are not intended to be used for navigation, nor are these maps an authoritative source of information about legal land ownership or public access. No warranty, expressed or implied, is made regarding accuracy, applicability for a particular use, completeness, or legality of the information depicted on this map. For more information, see the DNR Legal Notices web page: <http://dnr.wi.gov/legal/>

0.1 Miles



NAD_1983_HARN_Wisconsin_TM

1: 3,960