SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): December 18, 2019


C. PROJECT LOCATION AND BACKGROUND INFORMATION:

- State: Wisconsin
- County/parish/borough: Waushara
- City: Berlin
- Center coordinates of site (lat/long in degree decimal format): Lat. 43.993258° N, Long. -88.945344° E
- Universal Transverse Mercator: Zone 16
- Name of nearest waterbody: Fox River
- Name of watershed or Hydrologic Unit Code (HUC): 04030201 - Great Lakes Region
- 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: October 24, 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: A wetland delineation report completed by Martenson & Eisle, Inc. was submitted to the Corps on September 19, 2019 documenting the presence of aquatic resources within a 3.27-acre site located in the City of Berlin, Waushara County, Wisconsin. A desktop review of the delineation report was conducted on October 24, 2019 to assess the jurisdictional status of a 0.57-acre delineated wetland on the site, which is identified as "Wetland Area" on the attached figure labeled MVP-2019-02212-SJW: Figure 1. The review area for the Jurisdictional Determination is limited to the project boundary as shown on the attached figure labeled MVP-2019-02212-SJW: Figure 1.

  Lands surrounding the 3.27-acre review area are predominantly comprised of agricultural lands, residential and commercial developments, and small forested parcels. The review area itself is comprised entirely of an agricultural field which is utilized for the production of crops such as corn, beans, hay, etc. According to the NRCS Web Soil Survey (WSS) for Waushara County, Wisconsin, the project site is comprised of two soil types; Kewaunee loam (KnB) (well drained/non hydric) and Manawa silt clay loam (MbA) (somewhat poorly drained with hydric inclusions). A review of the Wisconsin Wetland Inventory mapping shows no mapped wetlands within the review area, however a review of aerial imagery dating back to the year 2008 indicates evidence of wet signatures within the review area, especially within the delineated limits of the Wetland Area. A review of the data presented in the wetland delineation report indicates wetland criteria was met throughout the Wetland Area. Specifically, soils within the Wetland Area were determined to be hydric, and hydrology indicators including soil saturation at 5 inches, soil cracks, algal mats, iron deposits, etc. were observed during the August 23, 2019 site investigation. According to the report, hydrology within the Wetland Area is fed by surface water during large precipitation events, and a majority of the overland water runoff is generated from an adjacent property to the north. Surface water within the site flows in a southwesterly direction through the site, however the Wetland Area is surrounded entirely by mapped wetlands.

¹ Supporting documentation is presented in Section III.F.
uplands and does not maintain a hydrologic connection to the nearest TNW which is approximately 0.4 miles away from the review area.

Based on this information, the Corps has determined that the 0.57 acre wetland within the review area is depressional and does not maintain a surface or shallow subsurface hydrologic connection or an ecological connection to a downstream TNW, nor is it separated from another WOUS by man-made dikes, barriers or berms. This wetland is not has not been utilized for interstate or foreign commerce, and this wetland is not used by interstate or foreign travelers for recreation or other purposes. In addition, this wetland does not produce fish or shellfish that could be taken or sold in interstate or foreign commerce, and is not used for industrial purposes. Therefore, the Corps has determined that the wetland identified as "Wetland Area" on the attached figure labeled MVP-2019-02212-SJW: Figure 1 is an isolated feature that 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: 0.57 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: Wetland Delineation Report completed by Martenson & Eisle, Inc., submitted by Jon Motquin on behalf of the applicant.
   - 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-Berlin
- USDA Natural Resources Conservation Service Soil Survey. Citation: Waushara County
- 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)
  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):

B. ADDITIONAL COMMENTS TO SUPPORT JD: