

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): JUL 26 2019

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Braun Road-Phase 2, MVP-2017-04050-ANM

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Wisconsin County/parish/borough: Racine City: Sturtevant
Center coordinates of site (lat/long in degree decimal format): Lat. 42.68390° N, Long. -87.90593° W
Universal Transverse Mercator: Zone 16 (X 424266.1543, Y 4725484.090157)

Name of nearest waterbody: North Branch Pike River

Name of watershed or Hydrologic Unit Code (HUC): Great Lakes Region (04040002)

- 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: March 28, 2019
 Field Determination. Date(s): November 28, 2017

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 one 0.16-acre intrastate wetland (W-13/ROW-W-83) that is not a water of the U.S. This was confirmed by a 2017 Corps field review and review of the Surface Water Data Viewer (SWDV), Racine County aeriels and topographic map, Google Earth aeriels, and the 2017 and 2018 TRC wetland delineation reports. The wetland is not mapped in the SWDV. The largest portion of the wetland was delineated in 2017 (labeled as ROW-W-83 in the 2017 TRC report) and the small, northern edge of the wetland was delineated in 2018 (labeled as W-13 in the 2018 TRC report). The wetland is located in an agricultural field just north of Braun Road and west of railroad tracks. An unnamed tributary to the North Branch Pike River is located approximately 690 feet north of the wetland, but ground level photos and topographic maps confirm there is not a hydrological connection to the wetland. No inlets or outlets to W-13/ROW-W-83 are visible in any of the aerial photos reviewed from 2000-2018.

W-13/ROW-W-83 is isolated with no surface or shallow sub-surface connection to jurisdictional waters. It is not bordering, neighboring or contiguous with another water of the U.S. and are not separated from other WOUS by man-made dikes, barriers, or berms. The surrounding land use is dominated by agricultural fields. The disturbance of surrounding land uses precludes an ecological connection to a WOUS. This wetland does not support a link to interstate or 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 that W-13/ROW-W-83 is not regulated by the Corps under Section 404 of the Clean Water Act.

SECTION III: CWA ANALYSIS

¹ Supporting documentation is presented in Section III.F.

- 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: 0.16 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: 2017 & 2018 TRC wetland delineation reports
- 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-Sturtevant
- USDA Natural Resources Conservation Service Soil Survey. Citation:
- 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 Geodectic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Racine County and Google Earth aerials
or Other (Name & Date): Ground level photos from 2017 delineation report
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): Racine County topographic map

B. ADDITIONAL COMMENTS TO SUPPORT JD: