

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 21, 2019

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2015-02585-AIS

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Wisconsin County/parish/borough: Kenosha County City: Kenosha
Center coordinates of site (lat/long in degree decimal format): Lat. 42.610243 °N, Long. 87.95844 °W
Universal Transverse Mercator: Zone 16, x421386, y4717979

Name of nearest waterbody: Root River

Name of watershed or Hydrologic Unit Code (HUC): Des Plaines (07120004)

- Check if map/diagram of review area is 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 3, 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 not to be jurisdictional.

Explain: **The review area for this determination consists ONLY of the areas labeled Ditch A and Ditch B on the attached figure MVP-2015-02585-AIS Page 2 of 4.**

Ditch A and Ditch B were constructed in uplands, drain only uplands, and do not carry a relatively permanent flow of water into waters of the U.S. (WoUS). Per the Rapanos decision, the evaluated ditches are not WoUS because they are not tributaries and do not have a significant nexus to traditionally navigable waters. This was confirmed by reviewing aerial photography, elevation data and soil data. The soils in the area consist of Elliott silty clay loam and Varna silt loam, both of which are non-hydric.

The area between Ditch A and Ditch B shaded in blue on the attached figure MVP-2015-02585-AIS Page 2 of 4 is a part of Wetland A, which was determined to not be a WoUS per the AJD on January 22, 2019.

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).

¹ Supporting documentation is presented in Section III.F.

- 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: **See Section II.B.2, above.**
- Wetlands: ____ (# ac.)

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: Pinnacle Engineering Group
- 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:
- 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: Kenosha County Soil Survey
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is:
- Photographs: Aerial (Name & Date):
 - or Other (Name & Date): Google Earth (2000-2018)
- Previous determination(s). File no. and date of response letter: MVP-2015-02585-DJM (January 22, 2019)
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

B. REQUIRED ADDITIONAL COMMENTS TO SUPPORT JD.