

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): 12/21/2015

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, First Industrial Realty Trust – JD, LRC-2015-692

C. PROJECT LOCATION AND BACKGROUND INFORMATION: A 25-acre review area located at 365 North Avenue.

State: **Illinois** County/parish/borough: **DuPage** City: **Carol Stream**
Center coordinates of site (lat/long in degree decimal format): **Lat. 41.90359°N, Long. -88.10847° W.**
Universal Transverse Mercator: **Zone 16**

Name of nearest waterbody: **Klein Creek**

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **None**

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

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: **11/27/2015**

Field Determination. Date(s): **10/20/2015**

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. [Required]

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. [Required]

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 1, approximately 2.7 acres on site, consists mostly open water in the northwest portion of the review area. Wetland 1 is connected to a ditch that was constructed in non-hydric soil, apparently in the 1970s. Old project plans provided by the current owner show that the site is pitched in the middle of the ditch, making it flow both east and west. On the western side of the pitch, water flows west into Wetland 1 and on the east side of the pitch, water flows into a storm sewer system on the northeast portion of the review area. There is no evidence that this ditch carries relatively permanent water and given the pitch and its length (approximately 1,460 linear feet) it is very unlikely that water from Wetland 1 reaches the storm sewer system. Wetland 1 collects water from the adjacent upland and no outlet to a downstream water was found, making it isolated in the landscape. This finding is supported by all the internal resources. Finally, note that the nearest mapped tributary is located over 5,000 feet away.**

Wetland 2, approximately 0.7 acres, is located within the northeast portion of the project area and consists of a small depressional wooded wetland. Wetland 2 is entirely surrounded by upland and does not have any hydrologic connection to a downstream water.

SECTION III: CWA ANALYSIS

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):²

which are or could be used by interstate or foreign travelers for recreational or other purposes.

from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

which are or could be used for industrial purposes by industries in interstate commerce.

Interstate isolated waters. Explain: .

Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

¹ Supporting documentation is presented in Section III.F.

² Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).
- Other non-wetland waters: acres.
- Identify type(s) of waters: .
- Wetlands: acres.

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: **Wetlands 1 and 2 total 3.4 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: **Encap Incorporated.**
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report. **Wetland Delineation Report for 365 North Avenue, Carol Stream, Bloomingdale Township, DuPage County, Illinois, dated September 4, 2015.**
 - 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: **Lombard HA 143, 1964,**
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: **Lombard 7.5", 1993.,**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **NRCS Web Soil Survey.**
- National wetlands inventory map(s). Cite name: **Lombard.,**
- State/Local wetland inventory map(s): **DuPage County ADID.**
- FEMA/FIRM maps: **Panel Number 17043C0208H.**
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): **Aerial views obtained on Google Earth Pro from 1999-2015.**
or Other (Name & Date): **Photos provided in the delineation report.**
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): **Site visit notes available in the record.**

B. ADDITIONAL COMMENTS TO SUPPORT JD:

- Area(s) are geographically isolated.
- Area(s) do not have a hydrologic nexus. **Both Wetlands 1 and 2 do not have a hydrologic connection to a downstream water. The nearest mapped tributary, in this heavily developed area, is located over 5,000 feet away.**
- Area(s) do not have an ecological nexus.
- Area(s) do not have evidence of a subsurface flow connection to a jurisdictional water.
- Area(s) do not have evidence of surface overland sheet flow.
- Area(s) are not located within the flood plain.

Areas are ditches (check all that apply):

Non-tidal drainage and irrigation ditches excavated on dry land (51 FR 41217, Nov. 13, 1986).

Ditches (including roadside ditches) excavated wholly in and draining only uplands and that do not carry a relatively permanent flow of water (USACE JD Form Instructional Guidebook 5/30/2007). **The ditch identified within the review area was excavated in non-hydric soil in the 1970s and there is no evidence that it carries relatively permanent flow.**

Ditches that do not have a relatively permanent flow into waters of the U.S. or between two (or more) waters of the U.S. (USACE JD Form Instructional Guidebook 5/30/2007).

Area(s) are artificial waters created in upland or dry land:

Artificially irrigated areas which would revert to upland if the irrigation ceased (51 FR 41217, Nov. 13, 1986).

Artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing (51 FR 41217, Nov. 13, 1986).

Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons (51 FR 41217, Nov. 13, 1986).

Waterfilled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States (51 FR 41217, Nov. 13, 1986).

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet criteria of this definition) (33 CFR 328.3 (a)).

Area(s) are swales (USACE JD Form Instructional Guidebook 5/30/2007).

Area(s) are erosional features (including gullies) (USACE JD Form Instructional Guidebook 5/30/2007).

Area(s) are prior converted cropland (33 CFR 328.3(a)(8)).

Area(s) are uplands.

Other:

LEGEND:

- Project Area —
- Approximate On-site Wetland Boundary —
- Ditch constructed wholly in the upland and does not carry relatively permanent flow - - -
- Approximate Off-site Wetland Boundary —



Aerial Photograph

Image Courtesy of Google Earth

365 North Avenue, Carol Stream

Project Number: 15-0616A

Jacob & Hefner Associates, Inc.



0 150 300 600

SCALE: 1" = 300'



NORTH