

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

SECTION I: BACKGROUND INFORMATION

- A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** September 28, 2015
- B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, **Chicago Sanitary and Ship Canal, LRC-2015-735, MWRDGC**
- C. PROJECT LOCATION AND BACKGROUND INFORMATION:** The Chicago Sanitary and Ship Canal
State: Illinois County: **Cook, DuPage, Will** City: Multiple
Center coordinates of site (lat/long in degree decimal format): Lat. 41.7645358 ° N, Long. -87.8432084 ° W.
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Chicago Sanitary and Ship Canal**
Name of watershed or Hydrologic Unit Code (HUC): **Chicago (07120003), Des Plaines (07120004)**
 Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
- D. REVIEW PERFORMED FOR SITE EVALUATION: Office (Desk) Determination. Date: 8/17/2015**

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

- Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: Defined in People of State of Ill. ex rel. Scott v. Hoffman, No. P-CIV-76-45, slip op. at 7 (S.D.Ill. Jan. 20, 1979).

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "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.

- a. Indicate presence of waters of U.S. in review area:** TNWs, including territorial seas

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: 176000 linear feet: width (ft) and/or acres.

- c. Limits (boundaries) of jurisdiction based on:** **Established by OHWM.**

Elevation of established OHWM (if known):

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: **Chicago Sanitary & Ship Canal.**

Summarize rationale supporting determination: The Chicago Sanitary & Ship Canal is defined as a navigable waterway in People of State of Ill. ex rel. Scott v. Hoffman, No. P-CIV-76-45, slip op. at 7 (S.D.Ill. Jan. 20, 1979).

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

- 1. TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:

TNWs: 176000 linear feet width (ft), Or, 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: CBBEL.
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas:
 USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Multiple 7.5" quads.
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): , or Other (Name & Date):
- Previous determination(s). File no. and date of response letter: multiple.
- Applicable/supporting case law: People of State of Ill. ex rel. Scott v. Hoffman, No. P-CIV-76-45, (S.D.Ill. Jan. 20, 1979)
- Other information (please specify):

APPROVED JURISDICTIONAL DETERMINATION FORM
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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): September 28, 2015

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, MWRD Lasma Facility, LRC-2015-735

C. PROJECT LOCATION AND BACKGROUND INFORMATION: East of Harlem Avenue, North of the Chicago Sanitary & Ship Canal

State: Illinois County/parish/borough: **Cook** City: Forest View
Center coordinates of site (lat/long in degree decimal format): Lat. 41.803°N, Long. -87.8005° W.
Universal Transverse Mercator: Zone 16

Name of nearest waterbody: Chicago Sanitary & Ship Canal
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Chicago Sanitary and Ship Canal**
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: October 13, 2015
 Field Determination. Date(s): October 9, 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: **The subject round excavated wetland pockets were created when the fuel tanks were removed for soil remediation from contaminants, and were excavated out of upland soil. Therefore, the subject man-made pockets created as remediation prior to disposing of property are exempt water features.**

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: .

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.

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.

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): **Man-made water pockets from fuel tank soil remediation for contaminants.**

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: 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: CBBEL Jurisdictional Determination Report.
- 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: Berwyn HA 252, 1967, .
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Berwyn 7.5", 1993, Pick List, Pick List, Pick List, .
- USDA Natural Resources Conservation Service Soil Survey. Citation: Soil Survey of DuPage and Part of Cook (1979).
- National wetlands inventory map(s). Cite name: Berwyn, .
- State/Local wetland inventory map(s): Pick List, .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): .
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: The site was an active fuel tank facility with loading and unloading by barge. Tanks were removed, and soil under them was excavated for contamination remediation, leaving a hole in upland soil that filled up with water during the remediation process prior to site conversion to another use.

- Area(s) are geographically isolated.
- Area(s) do not have a hydrologic nexus.
- 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.

NOTE: AERIAL PHOTOGRAPH TAKEN APRIL 30, 2015



0 75 150
Feet
1 inch = 150 feet

Legend

WATERS OF THE U.S.



MAN-INDUCED WETLAND



CLIENT:



TITLE:

**APPROXIMATE
WETLAND DELINEATION**

CBBEL # 15-0500

DATE: 8/31/15



CHRISTOPHER B. BURKE ENGINEERING, LTD.
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DWN.	KEK	SCALE:	1" = 89'
CHKD.	TGM	PLOT DATE:	9/4/2015
FILE NAME:	150500_AWD_2015		

EXH 6

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