



December 4, 2020

EXE-SE-2020-52-04020

TNG 27 LLC
Raymond Lefler
8338 Corporate Drive, Suite 300
Mt. Pleasant, WI 53406

RE: Artificial Wetland Exemption Determination for an area described as Wetlands W-2, W-3, and W-4, located in the SE 1/4 of the SW 1/4 of Section 01, Township 03 North, Range 21 East, Village of Mount Pleasant, Racine County.

Dear Mr. or Ms. Lefler:

This letter is in response to your request for an artificial wetland exemption determination for the above mentioned wetlands.

According to 281.36 (4n), State Statutes, a landscape feature where hydrophytic vegetation may be present as a result of human modification to the landscape or hydrology and for which no definitive evidence exists showing a prior wetland or stream history before August 1, 1991, may be exempt from state wetland regulations. The following types of artificial wetlands cannot be exempted from state wetland regulation:

- 1) a wetland that serves as a fish spawning area or that is passage to a fish spawning area and
- 2) a wetland created as a result of a wetland mitigation requirement.

In addition, DNR must also consider whether the artificial wetland is providing significant flood protection to adjacent or downstream properties and infrastructure, and/or significant water quality functions to adjacent or downstream water bodies.

The Department reviewed the following materials to aid in our exemption determination:

- The request narrative
- Historic Maps, including the Original Land Survey Plat, Bordner Survey, USGS topographic Quad maps, and soil mapping.
- Aerial photographs, including the 1937 photograph, a pre-construction photograph, and a post-construction photograph.
- Site photographs that show different angles and views of the wetland

Below is a summary of our findings:

Request Narrative

According to the request narrative, "Three wetlands (W-2, W-3, and W-4, see Heartland Wetland Report, Attachment 2) totaling 0.27 acres have developed within the Project Area due to anthropogenic activities associated with agricultural drain tile and excavation that began in

approximately 2004-2005. The basis for a determination of artificial wetlands is that wetland characteristics recently formed within documented upland areas likely due to a blocked drain tile and ponding associated with recent excavation. Wetland W-2 (0.04 acre) has recently formed due to a blowout in an east-west tile line that is blocked immediately east of W-2 and the Project Area. Diverted water from the tile line currently flows across the land surface in W-2 and appears to return to the tile line in the vicinity of a culvert under a driving lane west of W-2. Wetlands W-3 (0.03 acre) and W-4 (0.20 acre) appear to be excavations. All three”

Historic Map Review

- Original Land Survey Plat. The original land survey indicates a creek and riparian wetlands within the southern portion of the study area. The wetlands would have extended into the study area before agricultural drainage. The general land description is “1st rate, rolling, white, black and bur oak, sugar maple, basswood, elm, ash, hickory.”
- Bordner Survey. The Bordner survey indicates the study area to be mapped as “cleared crop land.” The East Branch Root River Canal is mapped as running along the western boundary of the study area.
- USGS Topographic Quad map: The 1959 and 1971 USGS Quad maps indicate no mapped wetlands or waterways within the study area, however it appears that the area drains toward the west and there is a mapped topographic depression in the vicinity where Wetland W-1 is now located (but not W-2, W-3, or W-4).
- Soil Maps: The 1919 U.S. Department of Agriculture soil survey map identifies Carrington silty clay loam (Cc) in the Project Site where W-2, W-3, and W-4 are located. The drainage in this soil type is described as: “*The drainage of the Carrington silty clay loam is somewhat deficient and tile drains are found to be very beneficial in most cases*”. It is notable that drain tiles are present in the Project Area.

Aerial Photograph Review

- 1937 aerial photograph. The 1937 aerial photograph shows the study area to have been cropped farm field with several weak wetness signatures not located where Wetlands W-2, W-3, and W-4 are now found. No definitive wetlands are seen within the study area.
- Pre-construction aerial photograph: The 1955 and 1958 aerial photograph show the study area to continue to be cropped farm field with no significant wetness signatures and no definitive wetlands. The 1976 aerial photograph shows scattered wetness signatures across the study area not located where Wetlands W-2, W-3, or W-4 are now found. What is now Wetland W-1 can be seen as an area of saturation and/or inundation. The 1980, 1981, 1984, 1988, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000 and 2001 aerial photographs show the study area continuing to be farmed with sporadic wetness signatures seen across the area over time. Wetland W-1 and another wetland north of the study area are the only definitive wetlands seen through this time span.
- Post-construction aerial photographs: The March 2005, April 2005, June 2005, August 2005, and September 2005 aerial photograph shows the completed construction of a road from the south border of the study area up through the center of the study area. The road has several short side spurs off the side and terminates in the center of the northern half of the study area. Clear excavation along the road and surrounding the termination of the road is clearly seen. Wetland W-4 is now located where clear grading and land manipulation is clearly seen in the 2005 aerial photographs. Wetland W-3 is now located in an area that appears to be an excavated hole/pond immediately east of the roadway. Wetland W-2 is located in what appears to be, and was described in the narrative as, an

old drain tile line. It is clear in the August 2005 aerial photograph that man-made disturbance occurred in this location and it appears that attempts were made to improve drainage in the area. 2006, 2007, 2008, 2010, 2013, 2017, and 2018 aerial photographs show standing water in Wetlands W-3 and W-4 the majority of years.

Site Photographs

The site photographs show Wetland W-2 to be a small depression adjacent to the roadway receiving overland surface flow. Wetland W-3 appears to be a small excavated pond with standing water ringed by shrubs. Wetland W-4 appears to be a large, shallow basin heavily vegetated with hybrid cattail (*Typha x glauca*).

Conclusion:

- Based upon the information provided above, the wetlands identified as Wetlands W-2, W-3, and W-4 lacked a wetland history prior to August 1, 1991 and fulfill all artificial wetland exemption standards. Therefore, Wetlands W-2, W-3, and W-4 are exempt from state wetland regulations.

This letter describes DNR's decision regarding the jurisdictional status of Wetlands W-2, W-3, and W-4 and is only valid for state jurisdictional purposes. For decisions regarding the federal jurisdictional status of Wetlands W-2, W-3, and W-4 you will need to contact the U.S. Army Corps of Engineers.

If you have any questions about this determination, please contact me at (920) 296-6507 or email marty.dillenburg@wisconsin.gov.

Sincerely,



Marty Dillenburg
Wetland Exemption Specialist

cc: Eric Parker, Principal Scientist, Heartland Ecological Group
U.S. Army Corps of Engineers
Chris Jors, Sr. Specialist-Biologist, SEWRPC
Samuel Shultz, Community Development Director, Village of Mount Pleasant