

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

JD Status: DRAFT

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 04-Feb-2010

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2009-00609-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois  
 County/parish/borough: McHenry  
 City: Riley Township  
 Lat: 42.20994  
 Long: -88.63564  
 Universal Transverse Mercator: Folder UTM List  
     UTM list determined by folder location  
     • NAD83 / UTM zone 38S  
     Waters UTM List  
     UTM list determined by waters location  
     • NAD83 / UTM zone 38S  
 Name of nearest waterbody: Coon Creek  
 Name of nearest Traditional Navigable Water (TNW): Rock River  
 Name of watershed or Hydrologic Unit Code (HUC): Coon Creek

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 the action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 04-Feb-2010  
 Field Determination Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

There [ ] "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 subject to the ebb and flow of the tide.  
 Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There [ ] "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:<sup>1</sup>

Water Name	Water Type(s) Present
LRC-2009-509 Wetland A	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
LRC-2009-509 Sg Nex	Non-RPWs that flow directly or indirectly into TNWs

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

Area: 228242 (m<sup>2</sup>)  
 Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on: 1987 Delineation Manual.  
 OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:<sup>3</sup>

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW  
 Not Applicable.

2. Wetland Adjacent to TNW  
 Not Applicable.

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: 16194 acres  
 Drainage area: 200 acres  
 Average annual rainfall: 36 inches  
 Average annual snowfall: 38 inches

(ii) Physical Characteristics

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through [ ] tributaries before entering TNW.

Number of tributaries

Project waters are 30 (or more) river miles from TNW.

Project waters are 1-2 river miles from RPW.

Project Waters are 30 (or more) aerial (straight) miles from TNW.

Project waters are 1-2 aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

Explain:

Identify flow route to TNW:<sup>5</sup>

Water drains from the on-site Wetland A and into an abutting non-RPW. Water flows to the west off-site for approximately 2200 feet before discharging into drain tile. The drain tile directs the water northwest for approximately 4400 feet and roughly follows the overland flow route that is evident on aerial photographs. The drain tile discharge into an open ditch and travels approximately 10,200 feet before joining Coon Creek, an RPW. Coon Creek is tributary to the Kishwaukee River, which is tributary to the Rock River, a TNW.

Tributary Stream Order, if known:

Order	Tributary Name
-	LRC-2009-509 Sig Nex

(b) General Tributary Characteristics:

Tributary is:

Tributary Name	Natural	Artificial	Explain	Manipulated	Explain
LRC-2009-509 Sig Nex	-	-	-	X	Excavated ditch and drain tile. Ditch evident in 1939 aerial. Ditch and drain tile located within hydric soils throughout the flow route, so it appears that this is a natural drainage path

Tributary properties with respect to top of bank (estimate):

Tributary Name	Width (ft)	Depth (ft)	Side Slopes
LRC-2009-509 Sig Nex	20	1	3:1

Primary tributary substrate composition:

Tributary Name	Silt	Sands	Concrete	Cobble	Gravel	Muck	Bedrock	Vegetation	Other
LRC-2009-509 Sig Nex	X					X			

Tributary (conditions, stability, presence, geometry, gradient):

Tributary Name	Condition/Stability	Run/Riffle/Pool Complexes	Geometry	Gradient (%)
LRC-2009-509 Sig Nex	Moderately stable, woody vegetation in some areas. Areas that are dominated in non-woody vegetation appear to be relatively stable.	-	Relatively straight	0

(c) Flow:

Tributary Name	Provides for	Events Per Year	Flow Regime	Duration & Volume
LRC-2009-509 Sig Nex	Perennial flow	-	This area has a high water table generally from February to June based on soil types. During the December 3rd site inspection, water was evident in the ditch where it enters the drain tile, through an exposed portion west of Blassdale Road, and where the drain tile discharges into the downstream ditch. Based on the above, water is likely present on a continuous or near-continuous basis throughout the year.	

Surface Flow is:

Tributary Name	Surface Flow	Characteristics
LRC-2009-509 Sig Nex	Confined	Water flows along the surface through the open portions of the ditch. An overland flow route that follows the same general trajectory as the drain tile is evident in aerial photographs from where the drain tile begins to where it discharges. It appears that water has historically flowed overland along this path, as this entire flow route is listed as having hydric soils on the USGS soils maps. This flow route of hydric soils extends from southeast of the subject wetland and extends to the northwest all of the way to Coon Creek.

Subsurface Flow:

Tributary Name	Subsurface Flow	Explain Findings	Dye (or other) Test
LRC-2009-509 Sig Nex	Yes	Water enters drain tile at the end of the open ditch that extends from the subject wetland. The drain tile discharges downstream on the south side of Jackson Road. Water was witnessed flowing into the drain tile during the December 3rd site inspection. Water was also seen within a broken portion of the drain tile west of Blassdale Road and discharging on the south side of Jackson Road. Water enters a culvert under Jackson and continues in an open ditch to the north and west to Coon Creek.	

Tributary has:

Tributary Name	Bed & Banks	OHWM	Discontinuous OHWM?	Explain
LRC-2009-509 Sig Nex	X			

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction:

High Tide Line indicated by:  
 Not Applicable.

Mean High Water Mark indicated by:  
Not Applicable.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc).  
Tributary Name Explain Identify specific pollutants, if known  
LRC-2009-509 Sg Nex Water appeared to be relatively clear in the ditch and in the drainile

(iv) Biological Characteristics. Channel supports:

Tributary Name	Riparian Corridor	Characteristics	Wetland Fringe	Characteristics	Habitat
LRC-2009-509 Sg Nex	X	Narrow corridor along drainage ditch, approximately 30 feet wide			

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Wetland Name	Size (Acres)	Wetland Type	Wetland Quality	Cross or Serve as State Boundaries. Explain
LRC-2009-509 Wetland A	56.4	emergent, sedge meadow, and fen wetland communities and a farmed wetland fringe	19.8 FQI based on ADID map for wetland and 11.4 for wetland fringe based on delineation report. Wetland is listed as a High Habitat Quality wetland.	

(b) General Flow Relationship with Non-TNW:

Wetland Name	Flow	Explain
LRC-2009-509 Wetland A	Perennial flow.	

Surface flow is:

Wetland Name	Flow	Characteristics
LRC-2009-509 Wetland A	Discrete and confined	Water flows through wetland and discharges into drainage ditch along the southern boundary. Two-foot contours show at least 2 drainage paths from the wetland to the drainage ditch along the southern edge of the wetland. These flow paths were likely excavated in the past in an attempt to drain the wetland. With the high water table present in the area of Wetland A, water likely flows discretely through the soil into the swale as well as overland in the the crested drainage swales.

Subsurface flow:

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
LRC-2009-509 Wetland A	Unknown	High water table likely results in groundwater flow from the wetland to the drainage ditch along the southern border of Wetland A	

(c) Wetland Adjacency Determination with Non-TNW:

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
LRC-2009-509 Wetland A	Yes			

(d) Proximity (Relationship) to TNW:

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
LRC-2009-509 Wetland A	30 (or more)	30 (or more)	Wetland to navigable waters	

(ii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc).  
Wetland Name Explain Identify specific pollutants, if known  
LRC-2009-509 Wetland A

(iii) Biological Characteristics. Wetland supports:

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
LRC-2009-509 Wetland A			X	Wetland vegetation

Habitat for:

Wetland Name	Habitat	Federally Listed Species	Explain Findings	Spawn Area	Explain Findings	Other Environmentally Sensitive Species	Explain Findings	Aquatic/Wildlife Diversity	Explain Findings
LRC-2009-509 Wetland A	X							X	ADID map identified wetland A as a High Habitat Quality Wetland

3. Characteristics of all wetlands adjacent to the tributary (# any):

All wetlands being considered in the cumulative analysis:  
Not Applicable.

Summarize overall biological, chemical and physical functions being performed:  
Not Applicable.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

**Findings for: LRC-2009-509 Wetland A, LRC-2009-509 Sig Nex**

The wetland in question is identified as Wetland A and is located in the western portion of the subject parcel. This wetland is cumulatively identified on the McHenry County Advanced Identification (ADID) wetland map as wetlands C72 and C65 and encompasses a total of 56.4 acres of farmed and non-farmed wetlands. Wetland C72 is identified as a High Habitat Value wetland consisting of fen, sedge meadow, and marsh communities. The interior portions were not investigated as a part of the wetland delineation report, but the ADID report indicates an FQI of 19.8. The ADID report indicates the main threats are impacts and siltation from adjacent agricultural production. ADID wetland C65 is identified as a farmed wetland and was the area primarily focused upon during the field investigation findings presented in the delineation report. The periphery of the wetland was found to have an FQI of 11.4 and has been significantly impacted by agriculture production. The entire wetland as a whole supports a high diversity of native plant species. High quality habitat sites are considered irreplaceable based on the fact that the complex biological systems and functions that these sites support cannot be successfully recreated within a reasonable time frame using existing restoration or creation methods. These wetlands also provide stormwater storage, sediment/toxicant retention and nutrient removal/transformation. The decrease of sedimentation, pollutants, and flooding and the benefits of nutrients and habitat provided by the subject wetland provide a positive effect to the downstream relatively permanent waters and traditional navigable waters. The water that leaves this wetland ends up discharging to Coon Creek, a class B stream. Coon Creek is tributary to the Kishwaukee River. Portions of the Kishwaukee River are rated class A. The Kishwaukee River is tributary to the Rock River, a traditional navigable water (TNW). The direct water connection between the wetland and the Kishwaukee River demonstrates the ability of the open ditch and drainile system to act as a tributary and carry pollutants, flood waters, nutrients and organic carbon to the TNW. The wetland in question has the ability to reduce the amount of pollutants and floodwaters reaching the TNW. The wetland alone and in combination with other area wetlands significantly affect the chemical, physical and biological integrity of the Rock River. Stormwater storage provided by this wetland affect the frequency and extent of downstream flooding, increasing flood peaks in the Kishwaukee River, eventually reaching the Rock River and in turn impacting navigation and downstream bank erosion and sedimentation. The sediment and pollutant/toxicant retention provided by the subject wetland has a direct positive effect on the Rock River in regards to navigation and aquatic food webs that are not adapted to thrive in sediment-choked environments. These factors contribute to the finding of a significant nexus between the on-site wetland and the TNW.

**D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:**

**1. TNWs and Adjacent Wetlands:**  
Not Applicable.

**2. RPWs that flow directly or indirectly into TNWs:**  
Not Applicable.

**Provide estimates for jurisdictional waters in the review area:**  
Not Applicable.

**3. Non-RPWs that flow directly or indirectly into TNWs:<sup>8</sup>**  
Not Applicable.

**Provide estimates for jurisdictional waters in the review area:**

Tributary Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
LRC-2009-509 Sig Nex	Non-RPWs that flow directly or indirectly into TNWs	2027.77344	-
<b>Total:</b>		<b>2027.77344</b>	<b>0</b>

**4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs:**  
Not Applicable.

**Provide acreage estimates for jurisdictional wetlands in the review area:**  
Not Applicable.

**5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs:**  
Not Applicable.

**Provide acreage estimates for jurisdictional wetlands in the review area:**  
Not Applicable.

**6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs:**  
Not Applicable.

**Provide estimates for jurisdictional wetlands in the review area:**

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
LRC-2009-509 Wetland A	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs	-	228242.6784
<b>Total:</b>		<b>0</b>	<b>228242.6784</b>

**7. Impoundments of jurisdictional waters:<sup>9</sup>**  
Not Applicable.

**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:<sup>10</sup>**  
Not Applicable.

**Identify water body and summarize rationale supporting determination:**  
Not Applicable.

**Provide estimates for jurisdictional waters in the review area:**  
Not Applicable.

**F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS**

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):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (ie., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:  
Not Applicable.

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.  
Not Applicable.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD

(listed items shall be included in case file and, where checked and requested, appropriately reference below):

Data Reviewed	Source Label	Source Description
--Data sheets prepared/submitted by or on behalf of the applicant/consultant	Farmed Wetland Determination	Identifies outer boundaries of farmed wetland. Boundaries of wetland not separated from farmed wetland.
---Office concurs with data sheets/delineation report	Wetland Delineation Report of the VCNA Prairie Aggregates Quarry, Marengo, Illinois	Includes site description, data forms, findings, and figures
--U.S. Geological Survey Hydrologic Atlas		
---USGS 8 and 12 digit HUC maps	12 Digit HUC map	Coon Creek Watershed
--USDA Natural Resources Conservation Service Soil Survey.	McHenry County Soil Survey	
--State/Local wetland inventory map(s):	McHenry County ADID	Wetland A identified on ADID map
--Photographs		
---Aerial	1939	Shows drainage ditch and Wetland A
---Other	6 Photos	December 3rd, 2009 inspection showing evidence of drain tile connection.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Not Applicable.

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below

<sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

<sup>3</sup> Supporting documentation is presented in Section III F.

<sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the grid West

<sup>5</sup> Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

<sup>6</sup> A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break

<sup>7</sup> Ibid.

<sup>8</sup> See Footnote #3.

<sup>9</sup> To complete the analysis refer to the key in Section III D 6 of the Instructional Guidebook

<sup>10</sup> 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 Riparian

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

JD Status: DRAFT

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 05-Mar-2010

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2009-00602-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois  
 County/parish/borough: Cook  
 City:  
 Lat: 41.56948  
 Long: -87.65365  
 Universal Transverse Mercator Folder UTM List  
*UTM list determined by folder location*  
 • NAD83 / UTM zone 37S  
Waters UTM List  
*UTM list determined by waters location*

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW):

Name of watershed or Hydrologic Unit Code (HUC):

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 the action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 05-Mar-2010

Field Determination Date(s): 26-Feb-2010

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

There  "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 subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There  "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:<sup>1</sup>

Water Name	Water Type(s) Present
Wetland 1	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

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

Area: (m<sup>2</sup>)

Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on:

OHWL Elevation: (if known)

2. Non-regulated waters/wetlands:<sup>3</sup>

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW

Not Applicable.

2. Wetland Adjacent to TNW

Not Applicable.

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size:

Drainage area:

Average annual rainfall: inches  
 Average annual snowfall: inches

(ii) Physical Characteristics

(a) Relationship with TNW:

Tributary flows directly into TNW.  
 Tributary flows through  tributaries before entering TNW.  
 :Number of tributaries

Project waters are  river miles from TNW.  
 Project waters are  river miles from RPW.  
 Project Waters are  aerial (straight) miles from TNW.  
 Project waters are  aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

Explain:

Identify flow route to TNW.<sup>5</sup>

Tributary Stream Order, if known:  
 Not Applicable.

(b) General Tributary Characteristics:

Tributary is:  
 Not Applicable.

Tributary properties with respect to top of bank (estimate):  
 Not Applicable.

Primary tributary substrate composition:  
 Not Applicable.

Tributary (conditions, stability, presence, geometry, gradient):  
 Not Applicable.

(c) Flow:  
 Not Applicable.

Surface Flow is:  
 Not Applicable.

Subsurface Flow:  
 Not Applicable.

Tributary has:  
 Not Applicable.

If factors other than the OHWM were used to determine lateral extent of CWA Jurisdiction:

High Tide Line indicated by:  
 Not Applicable.

Mean High Water Mark indicated by:  
 Not Applicable.

(iii) Chemical Characteristics:  
 Characterize tributary (e.g., water color is clear, discolored, oily film; water quality;general watershed characteristics, etc.).  
 Not Applicable.

(iv) Biological Characteristics. Channel supports:  
 Not Applicable.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland Name	Size (Acres)	Wetland Type	Wetland Quality	Cross or Serve as State Boundaries. Explain
Wetland 1	7.7	Mix of emergent, scrub and forested wetland.	Good	

(b) General Flow Relationship with Non-TNW:

Flow is:

Wetland Name	Flow	Explain
Wetland 1	Perennial flow.	

Surface flow is:

Wetland Name	Flow	Characteristics
Wetland 1	Overland sheetflow	Wetland is relatively flat, and water drains across and ultimately into pond; pond drains into pipe to creek.

Subsurface flow:

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
Wetland 1	Unknown		

(c) Wetland Adjacency Determination with Non-TNW:

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
Wetland 1	Yes			

(d) Proximity (Relationship) to TNW:

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
Wetland 1	5-10	5-10	Wetland to navigable waters	50 - 100-year

(ii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Wetland Name	Explain	Identify specific pollutants, if known
Wetland 1		

(iii) Biological Characteristics. Wetland supports:

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
Wetland 1				

Habitat for:

Wetland Name	Habitat	Federally Listed Species	Explain Findings	Spawn Area	Explain Findings	Other Environmentally Sensitive Species	Explain Findings	Aquatic Wildlife Diversity	Explain Findings
Wetland 1	X							X	

3. Characteristics of all wetlands adjacent to the tributary (if any):

All wetlands being considered in the cumulative analysis:  
Not Applicable.

Summarize overall biological, chemical and physical functions being performed:  
Not Applicable.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Significant Nexus: Not Applicable

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:

1. TNWs and Adjacent Wetlands:  
Not Applicable.

2. RPWs that flow directly or indirectly into TNWs:  
Not Applicable.

Provide estimates for jurisdictional waters in the review area:  
Not Applicable.

3. Non-RPWs that flow directly or indirectly into TNWs:<sup>a</sup>  
Not Applicable.

Provide estimates for jurisdictional waters in the review area:  
Not Applicable.

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.

Wetland Name	Flow	Explain
Wetland 1	PERENNIAL	Ponds drain out and create flow in the Calumet Union Drainage Ditch

Provide acreage estimates for jurisdictional wetlands in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
Wetland 1	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	31160.7912
Total:		0	31160.7912

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs:  
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:  
Not Applicable.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs:

Not Applicable.

Provide estimates for jurisdictional wetlands in the review area:  
Not Applicable.

7. Impoundments of jurisdictional waters:<sup>9</sup>  
Not Applicable

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:<sup>10</sup>  
Not Applicable.

Identify water body and summarize rationale supporting determination:  
Not Applicable.

Provide estimates for jurisdictional waters in the review area:  
Not Applicable.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS

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):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (ie., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:  
Not Applicable.

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.  
Not Applicable.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD

(listed items shall be included in case file and, where checked and requested, appropriately reference below)

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	-	-
--Data sheets prepared/submitted by or on behalf of the applicant/consultant	-	-
----Office concurs with data sheets/delineation report	-	-
--U.S. Geological Survey Hydrologic Atlas	-	-
----USGS 8 and 12 digit HUC maps	-	-
--U.S. Geological Survey map(s)	-	-
--USDA Natural Resources Conservation Service Soil Survey	-	-
--National wetlands inventory map(s)	-	-
--Photographs	-	-
----Aerial	-	-
----Other	-	-
--Applicable/supporting case law	-	-
--Other information	-	-

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description

Site visit on Feb. 26, 2010 confirmed connection.

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

<sup>3</sup> Supporting documentation is presented in Section III F

<sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

<sup>5</sup> Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

<sup>6</sup> A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

<sup>7</sup> Ibid

<sup>8</sup> See Footnote #3.

<sup>9</sup> To complete the analysis refer to the key in Section III D.6 of the Instructional Guidebook.

<sup>10</sup> 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

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

JD Status: DRAFT

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 04-Dec-2009

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2009-00694-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: IL - Illinois  
 County/parish/borough: Cook  
 City:  
 Lat: 42.14616  
 Long: -87.92504  
 Universal Transverse Mercator  
 Folder UTM List  
UTM list determined by folder location  
 • NAD83 / UTM zone 16N  
 Waters UTM List  
UTM list determined by waters location

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW):

Name of watershed or Hydrologic Unit Code (HUC):

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 the action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 10-Mar-2010

Field Determination Date(s): 09-Mar-2010

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

There  "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 subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There  "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:<sup>1</sup>

Water Name	Water Type(s) Present
Aptakisic Creek	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs
W-1	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs

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

Area: (m<sup>2</sup>)

Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on:

OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:<sup>3</sup>

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW

Not Applicable.

2. Wetland Adjacent to TNW

Not Applicable.

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size:

Drainage area:

Average annual rainfall: inches

Average annual snowfall: inches

(ii) Physical Characteristics

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through  tributaries before entering TNW.

:Number of tributaries

Project waters are  river miles from TNW.

Project waters are  river miles from RPW.

Project Waters are  aerial (straight) miles from TNW.

Project waters are  aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries

Explain:

Identify flow route to TNW:<sup>5</sup>

Tributary Stream Order, if known:

Order	Tributary Name
1	W-1
1	Aptakisc Creek

(b) General Tributary Characteristics:

Tributary is:

Tributary Name	Natural	Artificial	Explain	Manipulated	Explain
Aptakisc Creek	X				
W-1		X	Large excavated ditch with berms on both sides, berm to berm is 50', and depth is 10-15'		

Tributary properties with respect to top of bank (estimate):

Tributary Name	Width (ft)	Depth (ft)	Side Slopes
Aptakisc Creek	10	2	3:1
W-1	5	1	4:1 (or greater)

Primary tributary substrate composition:

Tributary Name	Silt	Sands	Concrete	Cobble	Gravel	Muck	Bedrock	Vegetation	Other
Aptakisc Creek	X								
W-1								X	

Vegetation Explained:

Tributary Name	Percent Cover	Vegetation Explained
Aptakisc Creek		
W-1	75	Emergent

Tributary (conditions, stability, presence, geometry, gradient):

Tributary Name	Condition/Stability	Run/Riffle/Pool Complexes	Geometry	Gradient (%)
Aptakisc Creek	Stable, with vegetated side slopes of trees and herbaceous vegetation.	Absent	Relatively straight	1
W-1	Ditch is very stable, and bottom where water is there is lots of wetland vegetation.	Absent	Relatively straight	1

(c) Flow:

Tributary Name	Provides for	Events Per Year	Flow Regime	Duration & Volume
Aptakisc Creek	Perennial flow	20 (or greater)	Creek flows strong year-round.	
W-1	Perennial flow	20 (or greater)	Slow steady flow on most days, with storm events causing flooding.	

Surface Flow is:

Tributary Name	Surface Flow	Characteristics
Aptakisc Creek		
W-1	Discrete and confined	Tall and wide sides constructed around ditch to hold storm flows.

Subsurface Flow:

Tributary Name	Subsurface Flow	Explain Findings	Dye (or other) Test
Aptakisc Creek	Unknown		
W-1	Unknown		

Tributary has:

Tributary Name	Bed & Banks	OHW	Discontinuous OHWM <sup>7</sup>	Explain
Aptakisc Creek	X	X		
W-1	X	X		

Tributaries with OHWM<sup>8</sup> - (as indicated above)

Tributary Name	OHW	Clear	Litter	Changes in Soil	Destruction Vegetation	Shelving	Wrack Line	Matted/Absent Vegetation	Sediment Sorting	Leaf Litter	Scour	Sediment Deposition	Flow Events	Wat Stain
Aptakisc Creek	X	X						X						

W-1 X

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction:

High Tide Line indicated by:  
Not Applicable.

Mean High Water Mark indicated by:  
Not Applicable.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Tributary Name	Explain	Identify specific pollutants, if known
Aptakisc Creek	Water is cloudy.	Sediment, road salts and grease/oil.
W-1	Water is generally clear.	Trash and sediment

(iv) Biological Characteristics. Channel supports:

Tributary Name	Riparian Corridor	Characteristics	Wetland Fringe	Characteristics	Habitat
Aptakisc Creek	X	Undeveloped land to majority of both sides of creek			
W-1					

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:  
Not Applicable.

(b) General Flow Relationship with Non-TNW:

Flow is:  
Not Applicable.

Surface flow is:  
Not Applicable.

Subsurface flow:  
Not Applicable.

(c) Wetland Adjacency Determination with Non-TNW:

Not Applicable.

(d) Proximity (Relationship) to TNW:

Not Applicable.

(ii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Not Applicable.

(iii) Biological Characteristics. Wetland supports:

Not Applicable.

3. Characteristics of all wetlands adjacent to the tributary (if any):

All wetlands being considered in the cumulative analysis:

Not Applicable.

Summarize overall biological, chemical and physical functions being performed:

Not Applicable.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Significant Nexus: Not Applicable

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:

1. TNWs and Adjacent Wetlands:

Not Applicable.

2. RPWs that flow directly or indirectly into TNWs:

Wetland Name	Flow	Explain
Aptakisc Creek	PERENNIAL	Creek flows year-round.
W-1	PERENNIAL	Large deep ditch with slow but continuous flow; plus storm events.

Provide estimates for jurisdictional waters in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )

Aptakasic Creek	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs	106.68	-
W-1	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs	152.4	-
<b>Total:</b>		<b>259.08</b>	<b>0</b>

3. Non-RPWs that flow directly or indirectly into TNWs:<sup>8</sup>  
Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.  
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:  
Not Applicable.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs:  
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:  
Not Applicable.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs:  
Not Applicable.

Provide estimates for jurisdictional wetlands in the review area:  
Not Applicable.

7. Impoundments of jurisdictional waters:<sup>9</sup>  
Not Applicable.

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:<sup>10</sup>  
Not Applicable.

Identify water body and summarize rationale supporting determination:  
Not Applicable.

Provide estimates for jurisdictional waters in the review area:  
Not Applicable.

**F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS**

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):

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Other (Explain):

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Not Applicable.

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Not Applicable.

**SECTION IV: DATA SOURCES.**

**A. SUPPORTING DATA. Data reviewed for JD**

(listed items shall be included in case file and, where checked and requested, appropriately reference below):

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-Office concurs with data sheets/delineation report	-	-
-U.S. Geological Survey Hydrologic Atlas	-	-
-USGS 8 and 12 digit HUC maps	-	-
-U.S. Geological Survey map(s).	-	-
-USDA Natural Resources Conservation Service Soil Survey.	-	-
-National wetlands inventory map(s).	-	-
-FEMA/FIRM maps	-	-
-Photographs	-	-
-Aerial	-	-
-Other	-	-
-Applicable/supporting case law	-	-
-Other information	-	-

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**

Description

Site visit on March 9, 2010 confirmed flagging and jurisdiction.

<sup>1</sup>-Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup>-For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

<sup>3</sup>-Supporting documentation is presented in Section III.F.

<sup>4</sup>-Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

<sup>5</sup>-Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

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<sup>7</sup>-ibid.

<sup>8</sup>-See Footnote #3.

<sup>9</sup>-To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

<sup>10</sup>-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 Rapenos.