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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 01-Apr-2009

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00638-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

<table>
<thead>
<tr>
<th>State</th>
<th>IL - Illinois</th>
</tr>
</thead>
<tbody>
<tr>
<td>County/parish/borough</td>
<td>[]</td>
</tr>
<tr>
<td>City</td>
<td>Chicago</td>
</tr>
<tr>
<td>Lat:</td>
<td>41.710974114282294</td>
</tr>
<tr>
<td>Long:</td>
<td>-87.540437</td>
</tr>
<tr>
<td>Universal Transverse Mercator</td>
<td>Folder UTM List</td>
</tr>
</tbody>
</table>

- UTM list determined by folder location
  - NAD83 / UTM zone 37S

- Waters UTM List
  - UTM list determined by waters location
  - NAD83 / UTM zone 37S

Name of nearest waterbody: Calumet River
Name of nearest Traditional Navigable Water (TNW): Calumet River
Name of watershed or Hydrologic Unit Code (HUC): 04040001

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: 15-May-2009
Field Determination Date(s): 

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 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: Traditional navigable waterway with interstate commerce usage of barges.

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:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Water Type(s) Present</th>
</tr>
</thead>
<tbody>
<tr>
<td>Calumet River</td>
<td>TNWs, including territorial seas</td>
</tr>
</tbody>
</table>

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

Area: (m²)
Linear: (m)
c. Limits (boundaries) of jurisdiction:
   based on: [ ]
   OHWM Elevation: (if known)

2. Non-regulated waters/wetlands: ³
   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
   TNW Name: [ ]
   Summarize rationale supporting determination:
   Calumet River: The Calumet River is listed as a Section 10 Navigable Waterway throughout.

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: ⁵

      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 OHRM 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:

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:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Type</th>
<th>Size (Linear) (m)</th>
<th>Size (Area) (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Calumet River</td>
<td>TNWs, including territorial seas</td>
<td>56.388</td>
<td>-</td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td>56.388</td>
<td>0</td>
</tr>
</tbody>
</table>

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:9
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:9
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:10
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 (i.e., 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
(filed items shall be included in case file and, where checked and requested, appropriately reference below):

<table>
<thead>
<tr>
<th>Data Reviewed</th>
<th>Source Label</th>
<th>Source Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Corps navigable waters study</td>
<td></td>
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<tr>
<td>U.S. Geological Survey Hydrologic Atlas</td>
<td></td>
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</tr>
<tr>
<td>U.S. Geological Survey map(s)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Previous determination(s)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicable/supporting case law</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description

The Calumet River is a recognized Section 10 navigable waterway throughout its reach.

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1. Boxes checked below shall be supported by completing the appropriate sections in Section III below.
2. 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).
3. Supporting documentation is presented in Section III.F.
4. Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the and West.
5. 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.
6. 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.
7. Ibid.
8. See Footnote #3.
9. To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
10. 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 eae

https://orm.usace.army.mil/orm2/?p=106:34:1790410092809076::NO::

6/2/2009
process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.
APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 12-Jun-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00262-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: IL - Illinois
County/parish/borough: McHenry
City: McHenry
Lat: 42.36761015651767
Long: -88.2157076162493
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

Name of nearest waterbody: Pistakee Lake
Name of nearest Traditional Navigable Water (TNW): Fox River
Name of watershed or Hydrologic Unit Code (HUC): 07120006

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 recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 12-Jun-2008
Field Determination Date(s): 12-Jun-2008

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 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: Pistakee Lake is part of the navigable Fox River Chain-O-Lakes ecosystem.

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:

   Water Name | Water Type(s) Present
   Pistakee Lake | TNWs, including territorial seas

b. Identify (estimate) size of waters of the U.S. in the review area:
   Area: (m²)
   Linear: (m)

c. Limits (boundaries) of jurisdiction:

2. Non-regulated waters/wetlands:

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

| TNW Name | Summarize rationale supporting determination:
| --- | --- |
| Pistakee Lake | The Courts declared the Chain-O-Lakes navigable in a 1985 lawsuit.

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.

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:
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:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Type</th>
<th>Size (Linear) (m)</th>
<th>Size (Area) (m$^2$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pistakee Lake</td>
<td>TNWs, including territorial seas</td>
<td>-</td>
<td>10117140</td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td>0</td>
<td>10117140</td>
</tr>
</tbody>
</table>

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: 
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: 
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: 
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 Definition 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 (i.e., 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
(rated items shall be included in case file and, where checked and requested, appropriately reference below):

<table>
<thead>
<tr>
<th>Data Reviewed</th>
<th>Source Label</th>
<th>Source Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>-Naps, plans, plots or plat submitted by or on behalf of the applicant/consultant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-Corps navigable waters study</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-U.S. Geological Survey Hydrologic Atlas</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-Applicable/supporting case law</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description

Pistakee Lake is navigable in-fact, and part of the Fox River Chain-O-Lakes ecosystem.

1- Boxes checked below shall be supported by completing the appropriate sections in Section III below.
2- For purposes of this form, an RPV is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least “seasonally” (i.e., typically 3 months).
3- Supporting documentation is presented in Section III,F.
4- Note that the Instructional Guidebook contains additional information regarding swales, ditches, waterways, and erosional features generally and in the arid West.
5- 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.
6- 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.
7- ibid.
8- See Footnote 3.
9- To complete the analysis refer to the key in Section III,D,6 of the Instructional Guidebook.
10- 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 Raritan.
SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JO): 12-Jun-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00282-JD2

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: IL - Illinois
County/parish/borough: McHenry
City: McHenry
Lat: 42.36761015651767
Long: -88.2157076182493
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

Name of nearest waterbody: Pistakee Lake
Name of nearest Traditional Navigable Water (TNW): Fox River
Name of watershed or Hydrologic Unit Code (HUC): 07120006

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:
Field Determination Date(s): 12-Jun-2008

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:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Water Type(s) Present</th>
<th>Wetland 1</th>
<th>Wetlands adjacent to TNWs</th>
</tr>
</thead>
</table>

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

Area: (m²)
Linear: (m)

c. Limits (boundaries) of jurisdiction:
based on: [ ]
OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:
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

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Summarize rationale supporting conclusion that wetland is &quot;adjacent&quot;:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 1</td>
<td>Wetland is directly abutting the navigable lake.</td>
</tr>
</tbody>
</table>

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:

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:  
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:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Type</th>
<th>Size (Linear) (m)</th>
<th>Size (Area) (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 1</td>
<td>Wetlands adjacent to TNWs</td>
<td>-</td>
<td>4046.856</td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td>0</td>
<td>4046.856</td>
</tr>
</tbody>
</table>

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:
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:
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:
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 (i.e., 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):

<table>
<thead>
<tr>
<th>Data Reviewed</th>
<th>Source Label</th>
<th>Source Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>-Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>-Data sheets prepared/submitted by or on behalf of the applicant/consultant</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>-Office consents with data sheets/delineation report</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>-U.S. Geological Survey Hydrologic Atlas</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>-U.S. Geological Survey map(s)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>-USDA Natural Resources Conservation Service Soil Survey</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>-National wetlands inventory map(s)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>-Other information</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description

The subject wetland is adjacent and contiguous with the navigable in-fact lake.

---

1. Boxes checked below shall be supported by completing the appropriate sections in Section III below.
2. For purposes of this form, an RPIW 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).
3. Supporting documentation is presented in Section III.F.
4. Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
5. 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.
6. A natural or man-made discontinuity in the OHHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHHWM has been removed by development or agricultural practices). Where there is a break in the OHHWM 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.
7. Ibid.
8. See Footnote #3.
9. To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

10. 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.
SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 20-Oct-2006

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2006-00574-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: IL - Illinois
County/parish/borough: Moline
City: Lomeloor
Lat: 42.3237714601556
Long: -86.213029414449781

Universal Transverse Mercator

- UTM Easting
- UTM Northing

Folder UTM List

UTM list determined by folder location

\* NAD83 / UTM zone 36S

Waters UTM List

UTM list determined by waters location

\* NAD83 / UTM zone 36S

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW): Fox River

Name of watershed or Hydrologic Unit Code (HUC): 07120009

Check if map diagram of review area and/or potential jurisdictional areas iso/re 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: 14-Nov-2006

Field Determination Date(s): 05-Nov-2006

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:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Water Type(s) Present</th>
<th>Wetland Adjacent to non-RPWs that flow directly or indirectly into TNWs</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

Area: (m²)
Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on: [ ]

OHHW Elevation: (if known)

2. Non-regulated waters/wetlands:

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

<table>
<thead>
<tr>
<th>General Area Conditions:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Watershed size:</td>
<td>1008237 acres</td>
</tr>
<tr>
<td>Drained area</td>
<td>393887 acres</td>
</tr>
<tr>
<td>Average annual rainfall</td>
<td>36 inches</td>
</tr>
</tbody>
</table>


6/2/2009
Average annual snowfall: 35.8 inches

(iii) Physical Characteristics
(a) Relationship with TNW:
   Tributary flows directly into TNW.
   Tributary flows through [ ] tributaries before entering TNW.
   Number of tributaries

   Project waters are 2-5 river miles from TNW.
   Project waters are 1 (or less) river miles from RPW.
   Project Waters are 2-5 aerial (straight) miles from TNW.
   Project waters are 1 (or less) aerial(straight) miles from RPW.

   Project waters cross or serve as state boundaries.

   Explain:
   Identify flow route to TNW. Wetland drains via Lily Lake Drain to Fox River Chain-O-Lakes ecosystem.

   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:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Size (Acres)</th>
<th>Wetland Type</th>
<th>Wetland Quality</th>
<th>Cross or Serve as State Boundaries. Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>1</td>
<td>Mixed open water with forested fringe</td>
<td>Medium</td>
<td></td>
</tr>
</tbody>
</table>

   (b) General Flow Relationship with non-TNW:

   Flow is:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Flow</th>
<th>Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>Intermittent flow</td>
<td></td>
</tr>
</tbody>
</table>

   Surface flow is:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Flow</th>
<th>Characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>Discrete and confined</td>
<td>Water flows during rain events as this wetland serves as a natural stormwater retention area.</td>
</tr>
</tbody>
</table>

   Subsurface flow:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Subsurface Flow</th>
<th>Explain Findings</th>
<th>Dye (or other) Test</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>Unknown</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(c) Wetland Adjacency Determination with Non-TNW:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Directly Abutting</th>
<th>Discrete Wetland Hydrologic Connection</th>
<th>Ecological Connection</th>
<th>Separated by Berm/Barrier</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(d) Proximity (Relationship) to TNW:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>River Miles From TNW</th>
<th>Areal Miles From TNW</th>
<th>Flow Direction</th>
<th>Within Floodplain</th>
<th>Wetland to navigable waters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>2.5</td>
<td>2.5</td>
<td></td>
<td>56 - 100-year</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Explain</th>
<th>Identify specific pollutants, if known</th>
<th>Road salt, sediment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>Explain</td>
<td>Identify specific pollutants, if known</td>
<td>Road salt, sediment</td>
</tr>
</tbody>
</table>

(iii) Biological Characteristics, Wetland supports:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Riparian Buffer Characteristics</th>
<th>Vegetation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td></td>
<td>Explain</td>
</tr>
</tbody>
</table>

Habitat for:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Habitat</th>
<th>Federally Listed Species</th>
<th>Explain Findings</th>
<th>Spawn Area</th>
<th>Other Environmentally Sensitive Species</th>
<th>Explain Findings</th>
<th>Aquatic/Wildlife Diversity</th>
<th>Explain Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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 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 Wetland A:

The wetland is adjacent and contiguous to Lily Lake Drain, which has seasonal relative permanent flow, and exhibits a surface water connection to a traditional navigable waterway. This surface water connection demonstrates the ability of the tributary to carry pollutants, flood waters, nutrients and organic carbon to the TNW. The adjacent wetlands have the ability to reduce the amount of pollutants and floodwaters reaching the TNW. The headwater wetland is receiving a percentage of its water from groundwater and from runoff from the surrounding uplands before it flows into Fox River Chan-O-Lakes ecosystem. Wetlands such as these provide stormwater storage, habitat, sediment/turbid water and nutrient removal/transformation. The decrease of sedimentation, pollutants, flooding, nutrients and habitat provided by the subject wetland provides a positive effect to the downstream relatively permanent wetlands and traditional navigable waters. The wetland alone is, and in combination with other areas, wetlands, significantly affect the chemical, physical and biological integrity of the Fox River Chan-O-Lakes ecosystem. Stormwater storage provided by the subject wetlands affect the frequency and extent of downstream flooding, decreasing flood peaks in the Fox River Chan-O-Lakes ecosystem, and in turn impacting navigation and downstream bank erosion and sedimentation. The sediment and pollutant retention provided by the subject wetland has a direct positive effect on the Fox River Chan-O-Lakes ecosystem 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 off-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:
   Not Applicable.

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

4. Wetlands directly abutting an RPW that flows 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

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Type</th>
<th>Size (Linear) [m]</th>
<th>Size (Area) [m²]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs</td>
<td></td>
<td>0</td>
<td>4046.856</td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td>0</td>
<td>4046.856</td>
</tr>
</tbody>
</table>

7. Impoundments of jurisdictional waters:*
Not Applicable

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTRA-STATE COMMERCE, INCLUDING ANY SUCH WATERS:**
Not Applicable

Identify water body and summarize rationale supporting determination:
Not Applicable

Provide estimates for jurisdictional wetlands 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 Definition 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 nexus 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:
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

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

- Data Reviewed Source Label Source Description
  - Data sheets prepared by the Corps
  - U.S. Geological Survey Hydrologic Atlas
  - U.S. Geological Survey maps
  - USDA Natural Resources Conservation Service Soil Survey
  - National wetlands inventory maps
  - Photographs
  - Aerial
  - Applicable/supporting case law

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description

Prior involvement with the subject wetland, as well as the drainage in the area through multiple other cases. Wetland elevation has been the same in the 10 plus years of observation, and flow observed in the past.

---

1. Source checked below shall be supported by completing the appropriate sections in Section III below
2. For purposes of this form, an RW is defined as a tributary that is a 7NM and that typically flow year-round or has continuous flow at least "seasonally" (e.g., typically 3 months)
3. Supporting documentation is presented in Section III F
4. Note that the jurisdictional guidelines contained additional information regarding swales, ditches, washes, and oxbow lakes generally and in the area west
5. Flow rules can be described in detail, e.g., tributary a, which flows through the review area, to flow in tributary, which then flows into TNW
6. A natural wetland is defined as either the OWM or does not necessarily have wetlands (e.g., where the stream meanders) or flows underground, or where the OWM has been removed by development or agricultural practices) Where there is a break in the OWM that is unrelated to the watershed's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indications of flow above and below the break
7. See Section III
8. For further details, see Section III D 6 of the jurisdictional guidelines
9. Prior to asserting a discrete OWM jurisdiction basis 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 Revisions

https://orm.usace.army.mil/orm2/?p=106:34:3576162041239661::NO::
6/2/2009