SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 17-Oct-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRG-2007-00495-JD2

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: IL - Illinois
County/parish/borough: Kane
City: Rutland Township
Lat.: 42.129968712954586
Long.: -88.46093926046441
Universal Transverse Mercator

Folder UTM List

UTM list determined by folder location

UTM list determined by waters location
NAD83 / UTM zone 38S
Waters UTM List
NAD83 / UTM zone 38S

Name of nearest waterbody: Tributary to Eakin Creek
Name of nearest Traditional Navigable Water (TNW): Rock River
Name of watershed or Hydrologic Unit Code (HUC): 07090050201

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: 17-Oct-2008

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.

† Waters of the U.S.

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

Area: 100 (m²)
Linear: (m)

C. Limits (boundaries) of jurisdiction:

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
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:

<table>
<thead>
<tr>
<th>Order</th>
<th>Tributary Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>LRC-2007-495 WL1</td>
</tr>
</tbody>
</table>

(b) General Tributary Characteristics:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Natural</th>
<th>Artificial</th>
<th>Explain</th>
<th>Manipulated</th>
<th>Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>LRC-2007-495 WL1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>X</td>
<td>This area has been straightened and/or created to drain wetlands.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Width (ft)</th>
<th>Depth (ft)</th>
<th>Side Slopes</th>
</tr>
</thead>
<tbody>
<tr>
<td>LRC-2007-495 WL1</td>
<td>10</td>
<td>5</td>
<td>-</td>
</tr>
</tbody>
</table>

Primary tributary substrate composition:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Silt</th>
<th>Sands</th>
<th>Concrete</th>
<th>Cobble</th>
<th>Gravel</th>
<th>Muck</th>
<th>Bedrock</th>
<th>Vegetation</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>LRC-2007-495 WL1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Condition/Stability</th>
<th>Run</th>
<th>R</th>
<th>iffle</th>
<th>Pool Complexes</th>
<th>Geometry</th>
<th>Gradient (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>LRC-2007-495 WL1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

(c) Flow:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Provides for</th>
<th>Events Per Year</th>
<th>Flow Regime</th>
<th>Duration &amp; Volume</th>
</tr>
</thead>
<tbody>
<tr>
<td>LRC-2007-495 WL1</td>
<td>Perennial flow</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Surface Flow is:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Surface Flow</th>
<th>Characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td>LRC-2007-495 WL1</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Subsurface Flow:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Subsurface Flow</th>
<th>Explain Findings</th>
<th>Dye (or other) Test</th>
</tr>
</thead>
<tbody>
<tr>
<td>LRC-2007-495 WL1</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Tributary has:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Bed &amp; Banks</th>
<th>OHWM</th>
<th>Discontinuous OHWM</th>
<th>Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>LRC-2007-495 WL1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

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.).

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Explain</th>
<th>Identify specific pollutants, if known</th>
</tr>
</thead>
<tbody>
<tr>
<td>LRC-2007-495 WL1</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

(iv) Biological Characteristics. Channel supports:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Riparian Corridor</th>
<th>Characteristics</th>
<th>Wetland Fringe</th>
<th>Characteristics</th>
<th>Habitat</th>
</tr>
</thead>
<tbody>
<tr>
<td>LRC-2007-495 WL1</td>
<td>X</td>
<td>90 feet total approximate width</td>
<td>X</td>
<td>High Functioning ADID wetland</td>
<td>X</td>
</tr>
</tbody>
</table>
Habitat for: (as indicated above)

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Habitat</th>
<th>Federally Listed Species</th>
<th>Explain Findings</th>
<th>Fish/Spawn Areas</th>
<th>Explain Findings</th>
<th>Other Environmentally Sensitive Species</th>
<th>Explain Findings</th>
<th>Aquatic/Wetland Diversity</th>
</tr>
</thead>
<tbody>
<tr>
<td>LRC-2007-495 WL1</td>
<td>X</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>X</td>
<td>Swainson's Hawk in this area</td>
<td>X</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Flow</th>
<th>Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>LRC-2007-495 WL1</td>
<td>PERENNIAL</td>
<td>Tributary is perennial</td>
</tr>
</tbody>
</table>

Provide estimates for jurisdictional waters in the review area:

<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>LRC-2007-495 WL1</td>
<td>Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs</td>
<td>-</td>
<td>1416.3996</td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td>0</td>
<td>1416.3996</td>
</tr>
</tbody>
</table>

3. Non-RPWs that flow directly or indirectly into TNWs.¹
   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 waters in the review area:
   Not Applicable.

7. Impoundment of jurisdictional waters.²
   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.³
   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):

Not Applicable.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Not Applicable.

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 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 Rapanos.
SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 14-Oct-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00535-JD2

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: IL - Illinois
County/parish/borough: McHenry
City: Huntley
Lat: 42.17324224788917
Long: -88.47513304526912
Universal Transverse Mercator

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: South Branch of Kishwaukee River
Name of nearest Traditional Navigable Water (TNW): Rock River
Name of watershed or Hydrologic Unit Code (HUC): Kishwaukee

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: 14-Oct-2008

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:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Water Type(s) Present</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

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:  48995 acres
Drainage area:  48995 acres
Average annual rainfall: 38.6 inches
Average annual snowfall: 38.8 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 (or less) river miles from RPW.
Project Waters are 30 (or more) 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 1 flows to Wetland 2 through underground pipe, to an unnamed tributary via drain tiles, to the South Branch of the Kishwaukee River (RPW), to the Rock River (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:

<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>LRC-2008-535</td>
<td>7.15</td>
<td>Open water and emergent vegetation</td>
<td>Disturbed, low quality plant community</td>
<td>-</td>
</tr>
<tr>
<td>Wetland 1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LRC-2008-535</td>
<td>3.38</td>
<td>emergent and scrub-shrub</td>
<td>highly disturbed, low quality</td>
<td>-</td>
</tr>
<tr>
<td>Wetland 2</td>
<td></td>
<td></td>
<td></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>LRC-2008-535</td>
<td>Intermittent flow.</td>
<td>-</td>
</tr>
<tr>
<td>Wetland 2</td>
<td></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>LRC-2008-535</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wetland 2</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

https://orm.usace.army.mil/orm2/?p=106:34:3071269025934653::NO::

10/15/2008
LRC-2008-535 Wetland 1 | Discrete and confined | The westemmost pond is connected to the emergent wetland.
LRC-2008-535 Wetland 2 | - | -

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>LRC-2008-535 Wetland 1</td>
<td>Yes</td>
<td>All ponds are connected to one another via underground pipe. Wetland 1 connects to wetland 2 via underground pipe.</td>
<td>-</td>
</tr>
<tr>
<td>LRC-2008-535 Wetland 2</td>
<td>Yes</td>
<td>Drain tile connects wetland 2 to off-site non-RPW, which leads to ADID wetland and RPW (South Branch of the Kishwaukee River)</td>
<td>X</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>LRC-2008-535 Wetland 1</td>
<td>Yes</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>LRC-2008-535 Wetland 2</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>Aerial Miles From TNW</th>
<th>Flow Direction</th>
<th>Within Floodplain</th>
</tr>
</thead>
<tbody>
<tr>
<td>LRC-2008-535 Wetland 1</td>
<td>30 (or more)</td>
<td>30 (or more)</td>
<td>Wetland to navigable waters</td>
<td>-</td>
</tr>
<tr>
<td>LRC-2008-535 Wetland 2</td>
<td>30 (or more)</td>
<td>30 (or more)</td>
<td>Wetland to navigable waters</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>
</tr>
</thead>
<tbody>
<tr>
<td>LRC-2008-535 Wetland 1</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>LRC-2008-535 Wetland 2</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

(iii) Biological Characteristics. Wetland supports:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Riparian Buffer</th>
<th>Characteristics</th>
<th>Vegetation</th>
<th>Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>LRC-2008-535 Wetland 1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>LRC-2008-535 Wetland 2</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 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-2008-535 Wetland 1, LRC-2008-535 Wetland 2
The subject property contains a two wetlands that exhibit a subsurface and surface water connection to a traditional navigable waterway. This 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 wetlands are receiving water from runoff from the surrounding uplands before it flows into a drain tile, which daylights at Marengo Road and travels into an intermittent stream, which enters into a wetland listed as High Habitat Value and abuts the South Branch of the Kishwaukee River (RPW), which eventually drains to the Rock River (TNW). The on-site wetlands are generally low in quality. However, they drain directly into a Habitat
High Wetland as identified by the McHenry County Advanced Identified (ADID) and into a class B stream (South Branch of the Kishwaukee River). The wetland, in combination with other area wetlands, significantly affect the chemical, physical and biological integrity of the Rock River. The wetlands abutting the Kishwaukee River provide stormwater storage and affect the frequency and extent of downstream flooding, increasing flood peaks in 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: 6
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:

<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>LRC-2008-535 Wetland 1</td>
<td>Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs</td>
<td>-</td>
<td>28936.0204</td>
</tr>
<tr>
<td>LRC-2008-535 Wetland 2</td>
<td>Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs</td>
<td>-</td>
<td>13678.37328</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>0</td>
<td>42613.39368</td>
</tr>
</tbody>
</table>

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
(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 the behalf of the applicant/consultant</td>
<td>McHenry ADID Map</td>
<td>Habitat Value High - drain tile exits into wetland north of Marengo Road</td>
</tr>
<tr>
<td>Maps, plans, plots or plat submitted by or on the behalf of the applicant/consultant</td>
<td>Hydrologic Atlas</td>
<td>ADID wetland is abutting Kishwaukee River (RPW), which can be seen in this figure.</td>
</tr>
<tr>
<td>Maps, plans, plots or plat submitted by or on the behalf of the applicant/consultant</td>
<td>Observed Drainage Patterns</td>
<td>Delineated wetlands with drainage patterns drawn showing connection to ADID wetland abutting the RPW</td>
</tr>
<tr>
<td>Maps, plans, plots or plat submitted by or on the behalf of the applicant/consultant</td>
<td>Wetland Boundary</td>
<td>Closer view of delineated wetland boundaries</td>
</tr>
</tbody>
</table>

B. ADDITIONAL COMMENTS TO SUPPORT JD:
Not Applicable.

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 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.

https://orn.usace.army.mil/orm2/?p=196:34:3071269025934653::NO::
10/15/2008
above and below the break.

7 Ibid.
8 See Footnote #2.
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.
APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION
A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (ID):

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago URE-2008-554 Will Center Road Storm Sewer

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Jurisdictional Area (drainage and abutting wetland)
State: Illinois  County/parish/borough: Will  City: University Park
Center coordinates of site (lat/long in degree decimal format): Lat. 41.434531° N, Long. 87.721704° W.

Name of nearest waterbody: Thorn Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Thorn Creek (flows in Sauk Trail Lake)
Name of watershed or Hydrologic Unit Code (HUC): Chicago (07120003)

☐ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☐ Office (Desk) Determination. Date:
☒ Field Determination. Date(s): June 11, 2008

SECTION II: SUMMARY OF FINDINGS
A. RHA SECTION 10 DETERMINATION OF JURISDICTION:

There Are no “navigable waters of the U.S.” within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]
☐ 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 Are “waters of the U.S.” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.
   a. Indicate presence of waters of U.S. in review area (check all that apply): 1
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☒ Relatively permanent waters2 (RPWs) that flow directly or indirectly into TNWs
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      ☐ Impoundments of jurisdictional waters
      ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. Identify (estimate) size of waters of the U.S. in the review area:
      Non-wetland waters: 120 linear feet: width (ft) and/or acres.
      Wetlands: 0.11 acres.

   c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual
      Elevation of established OHWM (if known): __________.

2. Non-regulated waters/wetlands (check if applicable): 3
   ☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: __________.

---

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.
SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW
   Identify TNW:
   Summarize rationale supporting determination:

2. Wetland adjacent to TNW
   Summarize rationale supporting conclusion that wetland is "adjacent":

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

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under Rapanos have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e., tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

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 Pick List tributaries before entering TNW.

      Project waters are  Pick List river miles from TNW.
      Project waters are  Pick List river miles from RPW.
      Project waters are  Pick List aerial (straight) miles from TNW.
      Project waters are  Pick List aerial (straight) miles from RPW.
      Project waters cross or serve as state boundaries. Explain:

      Identify flow route to TNW:
      Tributary stream order, if known:

---

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.
(b) **General Tributary Characteristics (check all that apply):**

**Tributary is:**
- [ ] Natural
- [ ] Artificial (man-made). Explain:
- [ ] Manipulated (man-altered). Explain:

**Tributary properties with respect to top of bank (estimate):**
- Average width: ___________ feet
- Average depth: ___________ feet
- Average side slopes: **Pick List**

Primary tributary substrate composition (check all that apply):
- [ ] Silts
- [ ] Sands
- [ ] Cobble
- [ ] Gravel
- [ ] Bedrock
- [ ] Vegetation. Type/% cover:
- [ ] Other. Explain: ___________

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: ___________
Presence of riffle/pool complexes. Explain: ___________
Tributary geometry: **Pick List**
Tributary gradient (approximate average slope): ___________ %

(c) **Flow:**

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime:

Other information on duration and volume:

Surface flow is: **Pick List**. Characteristics:

Subsurface flow: **Pick List**. Explain findings:
- [ ] Dye (or other) test performed:

Tributary has (check all that apply):
- [ ] Bed and banks
- [ ] OHWM (check all indicators that apply):
  - [ ] Clear, natural line impressed on the bank
  - [ ] Changes in the character of soil
  - [ ] Shelving
  - [ ] Vegetation matted down, bent, or absent
  - [ ] Leaf litter disturbed or washed away
  - [ ] Sediment deposition
  - [ ] Water staining
  - [ ] Other (list):
  - [ ] Discontinuous OHWM. Explain: ___________

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):
- [ ] High Tide Line indicated by:
  - [ ] Oil or scum line along shore objects
  - [ ] Fine shell or debris deposits (foreshore)
  - [ ] Physical markings/characteristics
  - [ ] Tidal gauges
  - [ ] Other (list):

**Mean High Water Mark indicated by:**
- [ ] Survey to available datum
- [ ] Physical markings
- [ ] Vegetation lines/changes in vegetation types

(iii) **Chemical Characteristics:**

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

Explain: ___________

Identify specific pollutants, if known: ___________

---

4A 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.

7Fold.
(iv) **Biological Characteristics. Channel supports (check all that apply):**

- [ ] Riparian corridor. Characteristics (type, average width):
- [ ] Wetland fringe. Characteristics:
- [ ] Habitat for:
  - [ ] Federally Listed species. Explain findings:
  - [ ] Fish/spawn areas. Explain findings:
  - [ ] Other environmentally-sensitive species. Explain findings:
  - [ ] Aquatic/wildlife diversity. Explain findings:

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

(i) **Physical Characteristics:**

(a) **General Wetland Characteristics:**

Properties:
- Wetland size: ___ acres
- Wetland type. Explain:
- Wetland quality. Explain:
- Project wetlands cross or serve as state boundaries. Explain:

(b) **General Flow Relationship with Non-TNW:**

Flow is: **Pick List**. Explain:

Surface flow is: **Pick List**

Characteristics:

Subsurface flow: **Pick List**. Explain findings:

- [ ] Dye (or other) test performed:

(c) **Wetland Adjacency Determination with Non-TNW:**

- [ ] Directly abutting
- [ ] Not directly abutting
  - [ ] Discrete wetland hydrologic connection. Explain:
  - [ ] Ecological connection. Explain:
  - [ ] Separated by berm/barrier. Explain:

(d) **Proximity (Relationship) to TNW**

Project wetlands are **Pick List** river miles from TNW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Flow is from: **Pick List**.
Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain:

Identify specific pollutants, if known:

(iii) **Biological Characteristics. Wetland supports (check all that apply):**

- [ ] Riparian buffer. Characteristics (type, average width):
- [ ] Vegetation type/percent cover. Explain:
- [ ] Habitat for:
  - [ ] Federally Listed species. Explain findings:
  - [ ] Fish/spawn areas. Explain findings:
  - [ ] Other environmentally-sensitive species. Explain findings:
  - [ ] Aquatic/wildlife diversity. Explain findings:

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

All wetland(s) being considered in the cumulative analysis: **Pick List**
Approximately (_____) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

<table>
<thead>
<tr>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
</tr>
</thead>
</table>

Summarize overall biological, chemical and physical functions being performed:

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 speculativ e 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.

Draw connections between the features documented and the effects on the TNW, as identified in the Rapanos Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - TNWs: __ linear feet width (W), Or, __ acres.
   - Wetlands adjacent to TNWs: __ acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: On-site investigation indicated flow of water in stream year-round. USGS map shows solid blue line where Thorn Creek crosses the site.
   - Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:
Provide estimates for jurisdictional waters in the review area (check all that apply):

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

3. Non-RPWs\(^8\) that flow directly or indirectly into TNWs.
☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.
☒ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
☒ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW. Wetland vegetation continues up to the edge of the stream and topography on site indicates a direct connection from the wetland to Thorn Creek. There are no barriers or other physical barriers between the wetland and Thorn Creek.

☐ Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.
☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.
☐ Wetlands adjacent to such waters, and when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. Impoundments of jurisdictional waters.\(^9\)

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
☐ Demonstrate that impoundment was created from “waters of the U.S.” or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):\(^10\)
☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .

---

\(^8\)See Footnote # 3.

\(^9\) To complete the analysis refer to the key in Section III.D.6 of the Instructuinal 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.
Identify water body and summarize rationale supporting determination:

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

☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☐ Prior to the Jan 2001 Supreme Court decision in “SWANCC,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).
☐ Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain:
☐ Other: (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource:
☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction (check all that apply):

☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource:
☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply) - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

☐ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant.
☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
☒ Office concurs with data sheets/delineation report.
☒ Office does not concur with data sheets/delineation report.
☐ Data sheets prepared by the Corps.
☐ Corps navigable waters’ study.
☐ USGS NHD data.
☒ USGS 8 and 12 digit HUC maps.
☒ U.S. Geological Survey map(s). Cite scale & quad name: 1"=500', University Park, Illinois quad.
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: USDA-NRCS Soil Survey of Will County, IL.
☒ National wetlands inventory map(s). Cite name: USDI Fish and Wildlife Service.
☑ State/Local wetland inventory map(s):
☒ FEMA/FIRM maps:
☐ 100-year Floodplain Elevation is: (National Geodeetic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): USDA-FSA NAIP, 2006, Will County, IL.
☐ or ☐ Other (Name & Date):
☐ Previous determination(s). File no. and date of response letter:
☐ Applicable/supporting case law:
☐ Applicable/supporting scientific literature:
☐ Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD:
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): 16-Jul-2007

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2007-00494-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: IL - Illinois
County/parish/borough: Kane
City: Huntley
Lat: 42.12638542831742
Long: -88.46458473447142
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: Kishwaukee River
Name of nearest Traditional Navigable Water (TNW): Kishwaukee River
Name of watershed or Hydrologic Unit Code (HUC): 07090006

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:

   25-Nov-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>
</tr>
</thead>
<tbody>
<tr>
<td>Eakin Creek</td>
<td>Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs</td>
</tr>
<tr>
<td>Wetland 1</td>
<td>Wetlands directly abutting RPWs that flow directly or indirectly into TNWs</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:

   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

(ii) 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:

https://orm.usace.army.mil/orm2/?p=106:34:2070224192410465::NO::

11/25/2008
(b) General Tributary Characteristics:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eakin Creek</td>
<td>Agricultural ditch</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Width (ft)</th>
<th>Depth (ft)</th>
<th>Slope</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eakin Creek</td>
<td>10</td>
<td>.5</td>
<td>3:1</td>
</tr>
</tbody>
</table>

Primary tributary substrate composition:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Silt</th>
<th>Sand</th>
<th>Congest</th>
<th>Gravel</th>
<th>Gravel</th>
<th>Mud</th>
<th>Gravel</th>
<th>Mud</th>
<th>Vegetation</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eakin Creek</td>
<td>X</td>
<td>X</td>
<td>-</td>
<td>-</td>
<td>X</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Condition/ Stability</th>
<th>Runoff/Runoff Complexes</th>
<th>Geometry</th>
<th>Gradient (%.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eakin Creek</td>
<td>Stable with vegetated banks</td>
<td>Absent, just flat flow.</td>
<td>Relatively straight</td>
<td>1</td>
</tr>
</tbody>
</table>

(c) Flow:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Flow Regime</th>
<th>Flow Volume</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eakin Creek</td>
<td>Seasonal flow</td>
<td>20 (or greater)</td>
</tr>
</tbody>
</table>

Surface Flow is:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Surface Flow</th>
<th>Characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eakin Creek</td>
<td>Discrete and confined</td>
<td>Channel is agricultural dug ditch.</td>
</tr>
</tbody>
</table>

Subsurface Flow:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Subsurface Flow</th>
<th>Explain Findings</th>
<th>Dye or Other Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eakin Creek</td>
<td>Unknown</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>
Tributary has:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Poll &amp; Psych</th>
<th>OHWM</th>
<th>Habitat</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eakin Creek</td>
<td>X</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

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.).

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Explain</th>
<th>Quality-specific pollutants &amp; Known</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eakin Creek</td>
<td>Water is brownish/cloudy, with a lot of sediment on bottom.</td>
<td>Siltation, agricultural pesticides and fertilizers</td>
</tr>
</tbody>
</table>

(iv) Biological Characteristics. Channel supports:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Riparian Corridor</th>
<th>Characteristics</th>
<th>Wetland Fringe</th>
<th>Characteristics</th>
<th>Habitat</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eakin Creek</td>
<td>X</td>
<td>Vegetated ditch about 10 feet wide.</td>
<td>X</td>
<td>Large wetland complex over 10 acres abuts tributary; and banks are vegetated with reed canary grass throughout.</td>
<td>-</td>
</tr>
</tbody>
</table>

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</th>
<th>Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 1</td>
<td>10.35</td>
<td>Emergent</td>
<td>Low to Moderate, 11.8 FQI</td>
<td>-</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 1</td>
<td>Intermittent flow</td>
<td>-</td>
</tr>
</tbody>
</table>
### Surface flow:

<table>
<thead>
<tr>
<th>Wetland 1</th>
<th>Flow Type</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 1</td>
<td>Overland sheetflow</td>
<td>Wetland discharges water to tributary during and after storm events; trickles out seasonally.</td>
</tr>
</tbody>
</table>

### Subsurface flow:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Flow Type</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 1</td>
<td>Unknown</td>
<td></td>
</tr>
</tbody>
</table>

### (c) Wetland Adjacency Determination with Non-TNW:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Adjacency with Non-TNW</th>
<th>Other Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 1</td>
<td>Yes</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>Aerial Miles from TNW</th>
<th>Flow Duration</th>
<th>Within Floodplain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 1</td>
<td>10-15</td>
<td>5-10</td>
<td>Wetland to navigable waters</td>
<td>100 - 500-year</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>Identity Specific pollutants if known</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 1</td>
<td>-</td>
<td>Sediment; agricultural pesticides and fertilizers</td>
</tr>
</tbody>
</table>

### (iii) Biological Characteristics. Wetland supports:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Riparian Buffer</th>
<th>Characteristics</th>
<th>Vegetation</th>
<th>Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 1</td>
<td>X</td>
<td>Vegetated corridor with trees along bank; 10 feet wide on average</td>
<td>X</td>
<td>Emergent vegetation along immediate banks, trees up higher.</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:
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:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Flow</th>
<th>Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eakin Creek</td>
<td>SEASONAL</td>
<td>Creek flows seasonally based on observation of wetland consultant.</td>
</tr>
</tbody>
</table>

Provide estimates for jurisdictional waters in the review area:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Type</th>
<th>Size (Linear ft)</th>
<th>Size (Area ft²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eakin Creek</td>
<td>Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs</td>
<td>-</td>
<td>1173.58824</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>0</td>
<td>1173.58824</td>
</tr>
</tbody>
</table>

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.
Wetland 1  SEASONAL  Wetland is headwater wetland that discharges water into tributary during storm events and afterwards.

Provide acreage estimates for jurisdictional wetlands in the review area:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Type</th>
<th>Size (Linear ft)</th>
<th>Sot (Area) (mi²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 1</td>
<td>Wetlands directly abutting RPWs that flow directly or indirectly into TNWs</td>
<td>-</td>
<td>41884.9596</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>0</td>
<td>41884.9596</td>
</tr>
</tbody>
</table>

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
(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>Wetland Delineation Report</td>
<td>June 6, 2007 Wetland Delineation Report by EnCAP, Inc.</td>
</tr>
<tr>
<td>- Data sheets prepared/submitted by or on behalf of the applicant/consultant</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>- State/Local wetland inventory map(s).</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>- FEMA/FIRM maps</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>
B. ADDITIONAL COMMENTS TO SUPPORT JD:

<table>
<thead>
<tr>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tributary with its abutting wetland has relatively permanent seasonal flow.</td>
</tr>
</tbody>
</table>

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 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 Rapanos.