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): 03-Oct-2011

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2011-00466-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   - State: IL - Illinois
   - County/parish/borough: Will
   - City: 41.426
   - Lat: -87.728
   - Long: Universal Transverse Mercator
     - Folder UTM List
       - UTM list determined by folder location
         - NAD83 / UTM zone 16N
     - Waters UTM List
       - UTM list determined by waters location
         - NAD83 / UTM zone 16N

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

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

D. REVIEW PERFORMED FOR SITE EVALUATION:
   - Office Determination Date: 03-Oct-2011
   - 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>
<tbody>
<tr>
<td>Wetland</td>
<td>Wetlands directly putting 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: 1 (m²)


10/3/2011
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:
      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:

<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</td>
<td>1</td>
<td>Palustrian</td>
<td>sedge and reed canary grass</td>
<td>-</td>
</tr>
</tbody>
</table>

(b) General Flow Relationship with Non-TNW:

Flow is:
Not Applicable.

Surface flow is:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Flow</th>
<th>Characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland</td>
<td>-</td>
<td>-</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</td>
<td>-</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</td>
<td>No</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>Wetland</td>
<td>5-10</td>
<td>-</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>Wetland</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>Wetland</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.

Significant Nexus: Not Applicable

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

1. TNWs and Adjacent Wetlands:
Not Applicable.

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

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

3. Non-RPWs that flow directly or indirectly into TNWs:
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.

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Flow</th>
<th>Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland</td>
<td>SEASONAL</td>
<td>Wetland is the headwaters of the Thorn Creek Watershed</td>
</tr>
</tbody>
</table>

Provide acreage 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>Wetland</td>
<td>Wetlands directly abutting RPWs that flow directly or indirectly into 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>

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.\textsuperscript{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.\textsuperscript{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>-</td>
<td>-</td>
</tr>
<tr>
<td>- U.S. Geological Survey Hydrologic Atlas</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>- USGS National Hydrography Dataset (NHD) data</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></td>
<td></td>
<td>- Aerial</td>
</tr>
</tbody>
</table>

B. ADDITIONAL COMMENTS TO SUPPORT JD:

<table>
<thead>
<tr>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Onsite wetland is a headwaters tributary to Thorn Creek.</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.
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): 13-Apr-2011

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2011-00186-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: IL - Illinois
County/parish/borough: Kane
City: West Chicago
Lat: 41.8833
Long: -88.23292
Universal Transverse Mercator: Folder UTM List

Name of closest waterbody:

Name of closest Traditional Navigable Water (TNW):

Name of watershed or Hydrologic Unit Code (HUC):

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with the action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 27-Apr-2011
Field Determination Date(s): 22-Apr-2011

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>Wetland A</td>
<td>Wetlands directly abutting RPWs that flow directly or indirectly into TNWs</td>
</tr>
<tr>
<td>Wetland B</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: (sq ft)
Linear: (m)

c. Limits (boundaries) of jurisdiction:
   based on:
   OrTWM 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:
   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>.88</td>
<td>Riparian emergent and forested.</td>
<td>Low to Moderate</td>
<td>-</td>
</tr>
<tr>
<td>Wetland B</td>
<td>.53</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>Wetland A</td>
<td>Perennial 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>Channels is discrete and confined, and wetland abutting it has boundary delineated in field.</td>
</tr>
<tr>
<td>Wetland B</td>
<td>-</td>
<td>-</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>
<tr>
<td>Wetland B</td>
<td>-</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>
<tr>
<td>Wetland B</td>
<td>No</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>Wetland A</td>
<td>30 (or more)</td>
<td>30 (or more)</td>
<td>Wetland to navigable waters</td>
<td>50 - 100-year</td>
</tr>
<tr>
<td>Wetland B</td>
<td>-</td>
<td>-</td>
<td>-</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>Wetland A</td>
<td></td>
<td>Sediment, road salt and grease/oils; railroad pesticides and grease.</td>
</tr>
<tr>
<td>Wetland B</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>Wetland A</td>
<td>X</td>
<td>10-500 feet.</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Wetland B</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 inessential effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Significant Nexus: Not Applicable

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

1. TNWs and Adjacent Wetlands:
Not Applicable.

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

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

3. Non-RPWs that flow directly or indirectly into TNWs:
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.

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Flow</th>
<th>Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>PERENNIAL</td>
<td>Tributary flows year-round</td>
</tr>
</tbody>
</table>

Provide acreage 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>Wetland A</td>
<td>Wetlands directly abutting RPWs that flow directly or indirectly into TNWs</td>
<td>-</td>
<td>3561.23328</td>
</tr>
<tr>
<td>Wetland B</td>
<td>Wetlands directly abutting RPWs that flow directly or indirectly into TNWs</td>
<td>-</td>
<td>2144.83369</td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td>0</td>
<td>5706.06696</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:
Not Applicable.

8. 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 concurs with data sheets/delineation report</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>---USGS 8 and 12 digit HUC maps</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>
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<tr>
<td>--Photographs</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>---Aerial</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>---Other</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>--Applicable/supporting case law</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>--Other information</td>
<td>-</td>
<td>-</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 "TW" 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 TW.
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 District 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.
This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 10/11/2011


C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: IL.  
   County/parish/county: Cook  
   City: near South Barrington, IL
   Center coordinates of site (lat/long in degree decimal format): Lat. 42.07284N  Long. -88.17627W
   Universal Transverse Mercator:
   Name of nearest waterbody: It is the headwater wetland for Spring Creek.
   Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Fox River, as the water flows, approximately 5 miles
   Name of watershed or Hydrologic Unit Code (HUC): Lower Fox (07120007)
   □ Check if map/diagram of review area and/or potential jurisdictional areas is 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: August 26, 2011
   □ Field Determination. Date(s):

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):  
      □ TNWs, including territorial seas  
      □ Wetlands adjacent to TNWs  
      □ Relatively permanent waters  
      □ Non-RPWs that flow directly or indirectly into TNWs  
      □ Wetlands 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: linear feet: width (ft) and/or acres.
      Wetlands: 1 acres.

   c. Limits (boundaries) of jurisdiction based on: Not established at this time.
      Elevation of established OHWM (if known): N/A.

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

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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.
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: N/A.
   
   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 waterbody⁴ 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: HUC 10 subwatershed is 12,339 acres
   Drainage area: 12,339 acres
   Average annual rainfall: 34.20 inches
   Average annual snowfall: 30.00 inches

(ii) Physical Characteristics:
   (a) Relationship with TNW:
      ☑ Tributary flows directly into TNW.
      ☑ Tributary flows through 7 tributaries before entering TNW.

      Project waters are 5-10 river miles from TNW.
      Project waters are 2-5 river miles from RPW.
      Project waters are 2-5 aerial (straight) miles from TNW.
      Project waters are 2-5 aerial (straight) miles from RPW.
      Project waters cross or serve as state boundaries. Explain: No.

      Identify flow route to TNW⁵: Wetland 1 drains into the drainage ditch along the north side of Higgins Road. It flows west to a 36" culvert that flows south under Higgins Road. It then goes through a 24" culvert under Bartlett Road to the

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¹ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

² 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.
west and then through a 36" culvert under Higgins Road to the north. This culvert is connected to a 7' x 4' box culvert that travels through the existing Arboretum Retail Center (northeast corner of Route 59 and Higgins Road) and discharges at the northeast corner of Arboretum Boulevard and Route 59.

Tributary stream order, if known: First order.

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

Tributary is:  
☐ Natural  ☑ Artificial (man-made). Explain: There is a grassed ditch conveying flows from the wetland to Spring Creek.
☐ Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate):
Average width: 1 feet  
Average depth: 0.5 feet  
Average side slopes: 4:1 (or greater).

Primary tributary substrate composition (check all that apply):
☐ Silts  ☐ Sands  ☐ Concrete
☐ Cobble/  ☐ Gravel  ☐ Muck
☐ Bedrock  ☑ Vegetation. Type/% cover:
☐ Other. Explain:

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Stable, gently sloping banks.
Presence of run/riffle/pool complexes. Explain: None.
Tributary geometry: Relatively straight
Tributary gradient (approximate average slope): low %

(c) Flow:
Tributary provides for: Intermittent but not seasonal flow
Estimate average number of flow events in review area/year: 10-20
Describe flow regime: water flows down gradient from wetland to shallow drainageway.
Other information on duration and volume: None.

Surface flow is: Confined. Characteristics: Water flows from the wetland to the roadside ditch to Spring Creek. Spring Creek drains into the Fox River.

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. 7 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:
☐ Mean High Water Mark indicated by:
☐ oil or scum line along shore objects
☐ physical markings;
☐ fine shell or debris deposits (foreshore)
☐ vegetation lines/changes in vegetation types.
☐ physical markings:
☐ tidal gauges
☐ other (list):

(iii) Chemical Characteristics:

*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.

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

Explain: Wetland 1 drains into the drainage ditch along the north side of Higgins Road. It flows west to a 36" culvert that flows south under Higgins Road. It then goes through a 24" culvert under Bartlett Road to the west and then through a 36" culvert under Higgins Road to the north. This culvert is connected to a 7' x 4' box culvert that travels through the existing Arboretum Retail Center (northeast corner of Route 59 and Higgins Road) and discharges at the northeast corner of Arboretum Boulevard and Route 59.

Identify specific pollutants, if known: Unknown.
(iv) Biological Characteristics. Channel supports (check all that apply):
☐ Riparian corridor. Characteristics (type, average width): .
☐ 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: .
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:
☐ 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: Unknown.

(iii) Biological Characteristics. Wetland supports (check all that apply):
☐ Riparian buffer. Characteristics (type, average width): .
☐ Vegetation type/percent cover. Explain: sedge meadow.
☐ 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:

Directly abuts? (Y/N)  Size (in acres)  Directly abuts? (Y/N)  Size (in acres)

Summarize overall biological, chemical and physical functions being performed: Three wetlands are along the first order tributary. The wetland associated with the subject property is part of a larger 16 acre High Functioning ADID wetland. Portions of the wetland are very high quality. Other portions of the wetland have been dredged to form man-made ponds. The subject property contains a headwater wetland that exhibits a surface water connection with a navigable waterway. The headwater wetland is receiving runoff from the surrounding uplands before it flows into a series of intermittent drainageways, to the Nipper'sink Creek and into the Fox River. The wetland supports a high diversity of native plant species. The wetland is identified on the McHenry County Advanced Identified (ADID) wetland map as being a high functioning wetland. High functioning wetlands have been prior identified as providing stormwater storage, habitat, sediment/toxicant retention and nutrient removal/transformation. The on-site tributary drains through 2 additional, smaller and lower quality wetlands before joining another intermittent drainageway.

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 of 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.: The subject property contains a headwater wetland that 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. Wetland 1 has the ability to reduce the amount of pollutants and floodwaters reaching the TNW. The headwater wetland is receiving runoff from the surrounding uplands before it flows into a series of drainage ditches, to Spring Creek and then into the Fox River. Wetlands have been prior identified as providing stormwater storage, habitat, sediment/toxicant retention 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 waters and traditional navigable waters. Stormwater storage is provided by the subject wetlands affecting the frequency and extent of downstream flooding, increasing flood peaks in the Fox 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 Fox 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.
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 (ft), 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.
   - 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 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.

   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 have 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.

*See Footnote # 3.*
7. Impoundments of jurisdicational waters.\(^9\)
   As a general rule, the impoundment of a jurisdicational tributary remains jurisdicitional.
   - 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:
   - Other factors. Explain:

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdicational waters in the review area (check all that apply):
   - Tributary waters: linear feet width (ft).
   - Other non-wetland waters: acres.
     Identify type(s) of waters:
   - Wetlands: acres.

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:

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\(^9\) 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.
B. ADDITIONAL COMMENTS TO SUPPORT JD: The wetland on the subject property exhibits a significant nexus to TNW for the following reasons. The headwater wetland located on the subject property exhibits a traceable surface water connection with a traditional navigable waterway. The headwater wetland is receiving runoff from the surrounding uplands and presumably groundwater before it flows into a series of intermittent drainageways, to Spring Creek and into the Fox River. Wetlands have been prior identified as providing stormwater storage, habitat, sediment/toxicant retention 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 waters and traditional navigable waters. A surface water connection can be traced from the subject headwater wetlands to a road side ditch into relatively permanent waters and traditional waterways.