

LRC-2006-00827

---

**Form Information**

---

JD Form Type: Isolate/Upland

**Project Location and Background Information**

---

State	IL - Illinois
County/parish/borough	Will
City	Frankfort
Lat	41.491
Long	-87.862
Nearest Waterbody	Hickory Creek
TNW into which the aquatic resource flows	Des Plaines River
Watershed or HUC	07120004
Map or diagram available	(Review or Jurisdictional Area)
JD recorded associated sites?	(e.g., offsite mitigation sites, disposal sites, etc.)
Universal Transverse Mercator:	[ ]

**Form Characteristics**

---

Each characteristic may or may not be available depending on the form type chosen.

**Isolate/Upland Form**

---

Instructions: Click Next to associate the pre-populated dates to your form. To change the dates, click in the field to access the calendar and select your new date(s). Click Next to continue.

**Dates**

JD Sequence: 2

Office Determination Date 17-Mar-2008

Field Determination Date(s)

Request Date 07-Jun-2006

**Offsite**

Area

Linear

Limits basis 1987 Delineation Manual

OHWM Elevation (if known)

**No Jurisdiction Determination**

---

*USACE has no jurisdiction*

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain  
Both wetlands are very small isolated depressions with no connection to any surface flowing waters.

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: Both wetlands are very small isolated depressions with no connection to any surface flowing waters.

Other: (explain, if not covered above):

LRC-2006-01216

---

**Form Information**

---

JD Form Type: Isolate/Upland

**Project Location and Background Information**

---

State	IL - Illinois
County/parish/borough	Will
City	Marley
Lat	41.551
Long	-87.922
Nearest Waterbody	Marley Creek
TNW into which the aquatic resource flows	Des Plaines River
Watershed or HUC	07120004
Map or diagram available	(Review or Jurisdictional Area)
JD recorded associated sites?	(e.g., offsite mitigation sites, disposal sites, etc.)
Universal Transverse Mercator:	[ ]

**Form Characteristics**

---

Each characteristic may or may not be available depending on the form type chosen.

**Isolate/Upland Form**

---

Instructions: Click Next to associate the pre-populated dates to your form. To change the dates, click in the field to access the calendar and select your new date(s). Click Next to continue.

**Dates**

JD Sequence: 1

Office Determination Date 17-Mar-2008

Field Determination Date(s)

Request Date 17-Oct-2006

**Offsite**

Area

Linear

Limits basis 1987 Delineation Manual

OHWM Elevation (if known)

**No Jurisdiction Determination**

---

*USACE has no jurisdiction*

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

There is an extremely tiny, 0.03 acre wetland on the southern end of the site, with absolutely no nearby flowing water body for it to drain into. This is about as isolated of a depression as you can find.

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: There is an extremely tiny, 0.03 acre wetland on the southern end of the site, with absolutely no nearby flowing water body for it to drain into. This is about as isolated of a depression as you can find; therefore, it has no impact on other jurisdictional waters of the U.S.

Other: (explain, if not covered above):

LRC-2007-00806

**Form Information**

JD Form Type: Isolate/Upland

**Project Location and Background Information**

State IL - Illinois  
 County/parish/borough McHenry  
 City Crystal Lake  
 Lat 42.21168053086673  
 Long -88.31592031460764  
 Nearest Waterbody Crystal Creek  
 TNW into which the aquatic resource flows Fox River  
 Watershed or HUC  
 Map or diagram available  (Review or Jurisdictional Area)  
 JD recorded associated sites?  (e.g., offsite mitigation sites, disposal sites, etc.)  
 Universal Transverse Mercator: []

**Form Characteristics**

Each characteristic may or may not be available depending on the form type chosen.

**Isolate/Upland Form**

Instructions: Click Next to associate the pre-populated dates to your form. To change the dates, click in the field to access the calendar and select your new date(s). Click Next to continue.

**Dates**

JD Sequence: 1

- Office Determination Date 10-Mar-2008  
 Field Determination Date(s)

Request Date

**Offsite**

Area

Linear

Limits basis []

OHWM Elevation (if known)

**No Jurisdiction Determination***USACE has no jurisdiction*

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

Wetlands C, D, E and F are not regulated by the Department of the Army. Wetlands C, D and E are geographically isolated waters. There are no streams or natural drainageways located in close proximity to these waters. The subject waters do not exhibit a significant nexus to a navigable waterway. The subject waters are depressional features as exhibited on the various maps reviewed, including the two-foot topographical survey. Wetland F is a manmade stormwater drainage ditch located along Rakow Road. For these reasons, the subject waters are considered isolated and not regulated by the Clean Water Act.

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):

LRC-2007-00547

## Form Information

JD Form Type: Isolate/Upland

## Project Location and Background Information

State IL - Illinois  
 County/parish/borough McHenry  
 City  
 Lat 42.19651401557501  
 Long -88.54973800691135  
 Nearest Waterbody Kishwaukee  
 TNW into which the aquatic resource flows Rock River  
 Watershed or HUC  
 Map or diagram available  (Review or Jurisdictional Area)  
 JD recorded associated sites?  (e.g., offsite mitigation sites, disposal sites, etc.)  
 Universal Transverse Mercator: [ ]

## Form Characteristics

Each characteristic may or may not be available depending on the form type chosen.

## Isolate/Upland Form

Instructions: Click Next to associate the pre-populated dates to your form. To change the dates, click in the field to access the calendar and select your new date(s). Click Next to continue.

### Dates

JD Sequence: 2

Office Determination Date  
 Field Determination Date(s)

Request Date 04-Sep-2007

### Offsite

Area 9.37

Linear

Limits basis Not Applicable

OHWM Elevation (if known)

## No Jurisdiction Determination

### USACE has no jurisdiction

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

Wetlands 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17 and 18 are geographically isolated wetland. There are no streams or natural drainageways located in close proximity to these wetlands. The wetlands do not exhibit a significant nexus to a navigable waterway. The wetlands are depressional features as exhibited on the various maps reviewed, including the two-foot topographical survey, and as verified by a site visit. For these reasons, the wetlands are considered isolated and not regulated by the Clean Water Act.

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):

LRC-2007-00806

**Form Information**

JD Form Type: Isolate/Upland

**Project Location and Background Information**

State IL - Illinois  
 County/parish/borough McHenry  
 City Crystal Lake  
 Lat 42.21168053086673  
 Long -88.31592031460764  
 Nearest Waterbody Crystal Creek  
 TNW into which the aquatic resource flows Fox River  
 Watershed or HUC  
 Map or diagram available  (Review or Jurisdictional Area)  
 JD recorded associated sites?  (e.g., offsite mitigation sites, disposal sites, etc.)  
 Universal Transverse Mercator: []

**Form Characteristics**

Each characteristic may or may not be available depending on the form type chosen.

**Isolate/Upland Form**

Instructions: Click Next to associate the pre-populated dates to your form. To change the dates, click in the field to access the calendar and select your new date(s). Click Next to continue.

**Dates**

JD Sequence: 1

 Office Determination Date 10-Mar-2008 Field Determination Date(s)

Request Date

**Offsite**

Area

Linear

Limits basis []

OHWM Elevation (if known)

**No Jurisdiction Determination***USACE has no jurisdiction*

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

Wetlands C, D, E and F are not regulated by the Department of the Army. Wetlands C, D and E are geographically isolated waters. There are no streams or natural drainageways located in close proximity to these waters. The subject waters do not exhibit a significant nexus to a navigable waterway. The subject waters are depressional features as exhibited on the various maps reviewed, including the two-foot topographical survey. Wetland F is a manmade stormwater drainage ditch located along Rakow Road. For these reasons, the subject waters are considered isolated and not regulated by the Clean Water Act.

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):

LRC-2007-00678

**Form Information**

JD Form Type: Isolate/Upland

**Project Location and Background Information**

State	IL - Illinois
County/parish/borough	McHenry
City	Woodstock
Lat	-88.53072951534751
Long	42.34169741865342
Nearest Waterbody	Kishwaukee River
TNW into which the aquatic resource flows	None
Watershed or HUC	
Map or diagram available	<input checked="" type="checkbox"/> (Review or Jurisdictional Area)
JD recorded associated sites?	<input type="checkbox"/> (e.g., offsite mitigation sites, disposal sites, etc.)
Universal Transverse Mercator:	[ ]

**Form Characteristics**

Each characteristic may or may not be available depending on the form type chosen.

**Isolate/Upland Form**

Instructions: Click Next to associate the pre-populated dates to your form. To change the dates, click in the field to access the calendar and select your new date(s). Click Next to continue.

**Dates**

JD Sequence: 1

 Office Determination Date 17-Oct-2007

 Field Determination Date(s)

Request Date 07-Sep-2007

**Offsite**

Area 1

Linear

Limits basis 1987 Delineation Manual

OHWM Elevation (if known)

**No Jurisdiction Determination***USACE has no jurisdiction*

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

A 1-acre geographically isolated wetland is located along the northern boundary of the subject property. There are no streams or natural drainageways located in close proximity to this wetland. The wetland does not exhibit a significant nexus to a navigable waterway. The wetland is a depressional feature as exhibited on the various maps reviewed, including the two-foot topographical survey. For these reasons, the wetland is considered isolated and not regulated by the Clean Water Act.

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):

LRC-2007-00462

---

**Form Information**

---

JD Form Type: Isolate/Upland

**Project Location and Background Information**

---

State	IL - Illinois
County/parish/borough	Kane
City	Sugar Grove
Lat	41.77978681354816
Long	-88.4587720374423
Nearest Waterbody	Blackberry Creek
TNW into which the aquatic resource flows	Fox River
Watershed or HUC	Lower Fox
Map or diagram available	<input type="checkbox"/> (Review or Jurisdictional Area)
JD recorded associated sites?	<input type="checkbox"/> (e.g., offsite mitigation sites, disposal sites, etc.)
Universal Transverse Mercator:	<input type="checkbox"/>

**Form Characteristics**

---

Each characteristic may or may not be available depending on the form type chosen.

**Isolate/Upland Form**

---

Instructions: Click Next to associate the pre-populated dates to your form. To change the dates, click in the field to access the calendar and select your new date(s). Click Next to continue.

**Dates**

JD Sequence: 1

 Office Determination Date 17-Mar-2008

 Field Determination Date(s)

09-Oct-2007

Request Date 22-Jun-2007

**Offsite**

Area

Linear

Limits basis 1987 Delineation Manual

OHWM Elevation (if known)

**No Jurisdiction Determination**

---

*USACE has no jurisdiction*

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

Site 1, Site 2, Site 3, Site 8, Farmed Wetland 3, and Farmed Wetland 15 are all closed depressional features with no surface water connection to a navigable waterway. Site 6 and Site 7 are detention basins not regulated by the Corps. Site 4 is a man-made or altered ditch which flows to Site 5. Site 5 is a closed linear depressional feature with no surface water connection to a navigable waterway.

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):

LRC-2007-00567

**Form Information**

JD Form Type: Isolate/Upland

**Project Location and Background Information**

State IL - Illinois  
 County/parish/borough McHenry  
 City Marengo  
 Lat 42.1694221432462  
 Long -88.5218049278032  
 Nearest Waterbody  
 TNW into which the aquatic resource flows Rock River  
 Watershed or HUC  
 Map or diagram available  (Review or Jurisdictional Area)  
 JD recorded associated sites?  (e.g., offsite mitigation sites, disposal sites, etc.)  
 Universal Transverse Mercator:

**Form Characteristics**

Each characteristic may or may not be available depending on the form type chosen.

**Isolate/Upland Form**

Instructions: Click Next to associate the pre-populated dates to your form. To change the dates, click in the field to access the calendar and select your new date(s). Click Next to continue.

**Dates**

JD Sequence: 2

 Office Determination Date Field Determination Date(s)

Request Date

**Offsite**

Area

Linear

Limits basis 

OHWM Elevation (if known)

**No Jurisdiction Determination***USACE has no jurisdiction*

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

Wetlands 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 16 and Farmed Wetlands 1 and 2 have been determined to be geographically isolated and therefore, not regulated by the Department of the Army. There are no streams or drainageways in close proximity to these wetlands. The wetlands do not exhibit a surface water connection to a navigable waterway.

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):

LRC-2007-00567

**Form Information**

JD Form Type: Seasonal

**Project Location and Background Information**

State IL - Illinois  
 County/parish/borough McHenry  
 City Marengo  
 Lat 42.1694221432462  
 Long -88.5218049278032  
 Nearest Waterbody  
 TNW into which the aquatic resource flows Rock River  
 Watershed or HUC  
 Map or diagram available  (Review or Jurisdictional Area)  
 JD recorded associated sites?  (e.g., offsite mitigation sites, disposal sites, etc.)  
 Universal Transverse Mercator:

**Form Characteristics**

Each characteristic may or may not be available depending on the form type chosen.

**Seasonal Form**

Instructions: Click Next to associate the pre-populated dates to your form. To change the dates, click in the field to access the calendar and select your new date(s). Click Next to continue.

**Dates**

JD Sequence: 3

Office Determination Date  
 Field Determination Date(s)

26-Jun-2007

Request Date

**Offsite**

Area

Linear

Limits basis 

OHWM Elevation (if known)

**General Area Conditions**

Watershed size 5790 acres  
 Drainage area 5790 acres  
 Average annual rainfall 35 inches  
 Average annual snowfall 38 inches

**Physical Characteristics**

Wetland	Lat	Lon	Size	Jurisdictional
1	42.175093	-88.521897	.24	no
2	42.172725	-88.521124	.07	no
3	42.172679	-88.521887	.03	no
4	42.170831	-88.521317	1.96	no
5	42.171757	-88.525419	.48	no
6	42.167438	-88.518413	.02	No
7	42.165422	-88.518791	.16	yes
8	42.164513	-88.519428	.24	yes
9	42.164538	-88.520126	.04	No
10	42.165513	-88.520770	.02	no
11	42.165488	-88.521492	.50	no
12	42.164525	-88.521084	.09	no
13	42.162651	-88.521502	.45	No
14	42.162485	-88.522199	.01	No
15	42.163943	-88.521622	.04	no
16	42.168316	-88.522736	.72	no
FWL 1	42.171925	-88.518867	1.14	no
FWL 2	42.165725	-88.521678	.31	no



**Progress**

- LRC-2007-00567-JD3
- ▼
- Background Information
- ▼
- Choose Waters
- ▼
- Form Characteristics
- ▼
- Evaluate Water
- ▼
- Form Summary

**Form Characteristics**

Each characteristic may or may not be available depending on the form type chosen.

**General Area Conditions**

Watershed size 5790 acres  
 Drainage area 5790 acres  
 Average annual rainfall 35 inches  
 Average annual snowfall 38 inches

**Physical Characteristics**

**Relationship with TNW:**

- Tributary flows directly into TNW.
- Tributary flows through several tributaries before entering TNW.

**TNW Distance to Project Waters**

River miles: 30 (or more)  
 Aerial miles: 30 (or more)

**RPW Distance to Project Waters**

River miles: 1-2  
 Aerial miles: 1 (or less)

Explain if the selected project water crosses or serves as state boundaries:  
 No

Flow route to TNW:  
 Through a small tributary, to Coon Creek, to the Kishwaukee River, to the Rock River (a navigable waterway)

**Significant Nexus Characteristics**

Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands

**Findings for: LRC-2007-567 WL 7, LRC-2007-567 WL 8**

Wetland 7 and Wetland 8, as identified in the Wetland Delineation Report dated July 18, 2007 prepared by Hey and Associates, Inc., are abutting a small tributary that flows east and winds through a residential subdivision. This tributary exhibits bed and bank and can be easily located in a 2005 aerial photograph. The tributary then flows into Coon Creek, which flows into the Kishwaukee River, which drains into the Rock River, a navigable waterway. Since there is a traceable surface hydrologic connection between Wetland 7 and 8 and the Rock River, these wetlands demonstrate the ability to carry pollutants, flood waters and nutrients to the TNW. In addition, these wetlands are contiguous with a high habitat ADID wetland as identified in the McHenry County ADID wetland maps totaling 16 acres. High habitat ADID wetlands have been prior identified as being important for wildlife and/or plant habitat, stormwater storage, sediment/toxicant retention and nutrient removal/transformation. The wetlands alone and in combination with other area wetlands significantly affect the chemical, physical, and biological integrity of the Rock River. For these reasons, Wetland 7 and 8 are regulated by the Department of the Army under the Clean Water Act.

**Relationship with TNW:**

- Tributary flows directly into TNW.
- Tributary flows through several tributaries before entering TNW.

**TNW Distance to Project Waters**

River miles: 30 (or more)

Aerial miles: 30 (or more)

**RPW Distance to Project Waters**

River miles: 1-2

Aerial miles: 1 (or less)

Explain if the selected project water crosses or serves as state boundaries:

No

Flow route to TNW:

Through a small tributary, to Coon Creek, to the Kishwaukee River, to the Rock River (a navigable waterway)

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

**SECTION I: BACKGROUND INFORMATION**

---

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, LRC-2007-00567-JD2

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State : IL - Illinois  
 County/parish/borough: McHenry  
 City: Marengo  
 Lat: 42.1694221432462  
 Long: -88.5218049278032  
 Universal Transverse Mercator: [ ]  
 Name of nearest waterbody:  
 Name of nearest Traditional Navigable Water (TNW): Rock River  
 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:

Field Determination Date(s): 26-Jun-2007

**SECTION II: SUMMARY OF FINDINGS**

---

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION**

There  "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

Waters subject to the ebb and flow of the tide.

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

Explain:

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There  "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

**1. Waters of the U.S.**

**a. Indicate presence of waters of U.S. in review area:<sup>1</sup>**

Water Name	Water Type(s) Present
LRC-2007-567 FWL 1	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-567 FWL 2	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-567 WL 1	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-567 WL 10	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-567 WL 11	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-567 WL 12	Isolated (interstate or intrastate) waters, including isolated wetlands

LRC-2007-567 WL 13	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-567 WL 14	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-567 WL 15	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-567 WL 16	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-567 WL 2	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-567 WL 3	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-567 WL 4	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-567 WL 5	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-567 WL 6	Isolated (interstate or intrastate) waters, including isolated wetlands

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

Area:  
Linear:

**c. Limits (boundaries) of jurisdiction:**

based on:   
OHWM Elevation: (if known)

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

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: Wetlands 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 16 and Farmed Wetlands 1 and 2 have been determined to be geographically isolated and therefore, not regulated by the Department of the Army. There are no streams or drainageways in close proximity to these wetlands. The wetlands do not exhibit a surface water connection to a navigable waterway.

**SECTION III: CWA ANALYSIS**

**A. TNWs AND WETLANDS ADJACENT TO TNWs**

**1. TNW**  
Not Applicable.

**2. Wetland Adjacent to TNW**  
Not Applicable.

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

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

**(i) General Area Conditions:**

Watershed size:   
Drainage area:   
Average annual rainfall: inches  
Average annual snowfall: inches

**(ii) Physical Characteristics**

**(a) Relationship with TNW:**

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

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

Project waters are  aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

Explain:

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

**Tributary Stream Order, if known:**

Not Applicable.

**(b) General Tributary Characteristics:**

**Tributary is:**

Not Applicable.

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

Not Applicable.

**Primary tributary substrate composition:**

Not Applicable.

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

Not Applicable.

**(c) Flow:**

Not Applicable.

**Surface Flow is:**

Not Applicable.

**Subsurface Flow:**

Not Applicable.

**Tributary has:**

Not Applicable.

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

**High Tide Line indicated by:**

Not Applicable.

**Mean High Water Mark indicated by:**

Not Applicable.

**(iii) Chemical Characteristics:**

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

Not Applicable.

**(iv) Biological Characteristics. Channel supports:**

Not Applicable.

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

**(i) Physical Characteristics:**

**(a) General Wetland Characteristics:**

**Properties:**

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:**

Not Applicable.

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

Not Applicable.

**3. Non-RPWs that flow directly or indirectly into TNWs:<sup>8</sup>**

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

**7. Impoundments of jurisdictional waters:<sup>9</sup>**

Not Applicable.

**E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS:<sup>10</sup>**

Waters Name	Interstate\Foreign Travelers	Fish/Shellfish Commerce	Industrial Commerce	Interstate Isolated	Explain	Other Factors	Explain
LRC-2007-567 FWL 1	-	-	-	-	-	-	-
LRC-2007-567 FWL 2	-	-	-	-	-	-	-
LRC-2007-567 WL 1	-	-	-	-	-	-	-
LRC-2007-567 WL 10	-	-	-	-	-	-	-
LRC-2007-567 WL 11	-	-	-	-	-	-	-
LRC-2007-567 WL 12	-	-	-	-	-	-	-
LRC-2007-567 WL 13	-	-	-	-	-	-	-
LRC-2007-567 WL 14	-	-	-	-	-	-	-
LRC-2007-567 WL 15	-	-	-	-	-	-	-
LRC-2007-567 WL 16	-	-	-	-	-	-	-
LRC-2007-567 WL 2	-	-	-	-	-	-	-
LRC-2007-567 WL 3	-	-	-	-	-	-	-
LRC-2007-567 WL 4	-	-	-	-	-	-	-
LRC-2007-567 WL 5	-	-	-	-	-	-	-
LRC-2007-567 WL 6	-	-	-	-	-	-	-

**Identify water body and summarize rationale supporting determination:**

Water Name	Adjacent To TNW Rationale	TNW Rationale
LRC-2007-567 FWL 1	-	-
LRC-2007-567 FWL 2	-	-
LRC-2007-567 WL 1	-	-

LRC-2007-567 WL 10	-	-
LRC-2007-567 WL 11	-	-
LRC-2007-567 WL 12	-	-
LRC-2007-567 WL 13	-	-
LRC-2007-567 WL 14	-	-
LRC-2007-567 WL 15	-	-
LRC-2007-567 WL 16	-	-
LRC-2007-567 WL 2	-	-
LRC-2007-567 WL 3	-	-
LRC-2007-567 WL 4	-	-
LRC-2007-567 WL 5	-	-
LRC-2007-567 WL 6	-	-

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

Water Name	Type	Size (Linear)	Size (Area)
LRC-2007-567 FWL 1	Isolated (interstate or intrastate) waters, including isolated wetlands	-	4613.41584
LRC-2007-567 FWL 2	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1254.52536
LRC-2007-567 WL 1	Isolated (interstate or intrastate) waters, including isolated wetlands	-	971.24544
LRC-2007-567 WL 10	Isolated (interstate or intrastate) waters, including isolated wetlands	-	80.93712
LRC-2007-567 WL 11	Isolated (interstate or intrastate) waters, including isolated wetlands	-	2023.428
LRC-2007-567 WL 12	Isolated (interstate or intrastate) waters, including isolated wetlands	-	364.21704
LRC-2007-567 WL 13	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1821.0852
LRC-2007-567 WL 14	Isolated (interstate or intrastate) waters, including isolated wetlands	-	40.46856
LRC-2007-567 WL 15	Isolated (interstate or intrastate) waters, including isolated wetlands	-	161.87424
LRC-2007-567 WL 16	Isolated (interstate or intrastate) waters, including isolated wetlands	-	2913.73632
LRC-2007-567 WL 2	Isolated (interstate or intrastate) waters, including isolated wetlands	-	283.27992
LRC-2007-567 WL 3	Isolated (interstate or intrastate) waters, including isolated wetlands	-	121.40568
LRC-2007-567 WL 4	Isolated (interstate or intrastate) waters, including isolated wetlands	-	7931.83776
LRC-2007-567 WL 5	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1942.49088
LRC-2007-567 WL 6	Isolated (interstate or intrastate) waters, including isolated wetlands	-	80.93712
<b>Total:</b>		<b>0</b>	<b>24604.88448</b>

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

If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements:

- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce:
- Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR):

Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (Explain):

Other (Explain):

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

Water Name	Type	Size (Linear)	Size (Area)
LRC-2007-567 FWL 1	Isolated (interstate or intrastate) waters, including isolated wetlands	-	4613.41584

LRC-2007-567 FWL 2	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1254.52536
LRC-2007-567 WL 1	Isolated (interstate or intrastate) waters, including isolated wetlands	-	971.24544
LRC-2007-567 WL 10	Isolated (interstate or intrastate) waters, including isolated wetlands	-	80.93712
LRC-2007-567 WL 11	Isolated (interstate or intrastate) waters, including isolated wetlands	-	2023.428
LRC-2007-567 WL 12	Isolated (interstate or intrastate) waters, including isolated wetlands	-	364.21704
LRC-2007-567 WL 13	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1821.0852
LRC-2007-567 WL 14	Isolated (interstate or intrastate) waters, including isolated wetlands	-	40.46856
LRC-2007-567 WL 15	Isolated (interstate or intrastate) waters, including isolated wetlands	-	161.87424
LRC-2007-567 WL 16	Isolated (interstate or intrastate) waters, including isolated wetlands	-	2913.73632
LRC-2007-567 WL 2	Isolated (interstate or intrastate) waters, including isolated wetlands	-	283.27992
LRC-2007-567 WL 3	Isolated (interstate or intrastate) waters, including isolated wetlands	-	121.40568
LRC-2007-567 WL 4	Isolated (interstate or intrastate) waters, including isolated wetlands	-	7931.83776
LRC-2007-567 WL 5	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1942.49088
LRC-2007-567 WL 6	Isolated (interstate or intrastate) waters, including isolated wetlands	-	80.93712
<b>Total:</b>		<b>0</b>	<b>24604.88448</b>

**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.

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

<sup>2</sup>-For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least  $\frac{1}{2}$  seasonally (e.g., typically 3 months).

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

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

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

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

<sup>7</sup>-Ibid.

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

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

<sup>10</sup>-Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

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

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): March 3, 2008**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, Ford Heights JD, LRC-2007-852**

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: IL County/parish/borough: Cook City: Ford Heights  
Center coordinates of site (lat/long in degree decimal format): Lat. 41.519748° N, Long. -87.576475° E.  
Universal Transverse Mercator:

Name of nearest waterbody: Deer Creek

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Calumet River

Name of watershed or Hydrologic Unit Code (HUC): Little Calumet-Galien (04040001)

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

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

- Office (Desk) Determination. Date: March 3, 2008  
 Field Determination. Date(s): January 31, 2008

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There **Pick List** "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 **Pick List** "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):<sup>1</sup>**

- TNWs, including territorial seas  
 Wetlands adjacent to TNWs  
 Relatively permanent waters<sup>2</sup> (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: linear feet: width (ft) and/or acres.  
Wetlands: acres.

**c. Limits (boundaries) of jurisdiction based on: **Pick List****

Elevation of established OHWM (if known): .

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  
Explain: **Wetlands did not exhibit an identifiable hydrologic connection to a navigable water .**

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

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

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

## 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<sup>4</sup> 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: **Pick List**

Drainage area: **Pick List**

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<sup>5</sup>:

Tributary stream order, if known:

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

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

(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  Concrete  
 Cobbles  Gravel  Muck  
 Bedrock  Vegetation. Type/% cover:  
 Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .

Presence of run/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<sup>6</sup> (check all indicators that apply):  
 clear, natural line impressed on the bank  the presence of litter and debris  
 changes in the character of soil  destruction of terrestrial vegetation  
 shelving  the presence of wrack line  
 vegetation matted down, bent, or absent  sediment sorting  
 leaf litter disturbed or washed away  scour  
 sediment deposition  multiple observed or predicted flow events  
 water staining  abrupt change in plant community  
 other (list):  
 Discontinuous OHWM.<sup>7</sup> 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  survey to available datum;  
 fine shell or debris deposits (foreshore)  physical markings;  
 physical markings/characteristics  vegetation lines/changes in vegetation types.  
 tidal gauges  
 other (list):

(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: .

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

<sup>7</sup>Ibid.

(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:

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

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.**

**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 (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<sup>8</sup> 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.

**7. Impoundments of jurisdictional waters.<sup>9</sup>**

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):<sup>10</sup>**

- 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:** .

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

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

<sup>10</sup>Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

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: .
- 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: **The wetland had no identifiable hydrologic connection to a navigable water.**
- 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: 1 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: Farmed Wetland Delineation Report dated September 2007.
- 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: .
- U.S. Geological Survey Hydrologic Atlas: HA-39.
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: .
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): .  
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 DECISION DOCUMENT  
U.S. Army Corps of Engineers, Chicago District

APPLICANT: Jeffrey Kudlac/Midwest Properties PROJECT LOCATION/WATERWAY: Southwest of I-55 and Bluff Raod in Channahon, Will County, Illinois / Des Plaines River  
FILE NUMBER: LRC-2007-407 PROJECT REVIEW COMPLETED:  Office  Field

Approved Jurisdictional Determination (JD) (For Sites regulated under 33 CFR 320-330). An approved JD is an appealable action. (33 CFR 331.2)

- Based on available information:
- There are no waters on the project site.
  - There are non-jurisdictional waters on the project site.
  - There are waters of the United States on the project site.
  - There are both waters of the United States and non-jurisdictional waters on the project site.

**Basis of Jurisdictional Determination:**

- There are no jurisdictional waters of the United States present on the project site.
- The presence of waters which are currently used, or were used in the past, or may be susceptible for use to transport interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide (i.e., navigable waters of the U.S.) (33 CFR 328.3(a)(1))
- The presence of interstate waters (including interstate wetlands<sup>1</sup>). (33 CFR 328.3 (a)(2))
- The presence of a tributary to an interstate water or other water of the US. (33 CFR 328.3 (a)(5))
- The presence of wetlands adjacent<sup>2</sup> ( bordering, contiguous, or neighboring) to interstate or other waters of the US, except for those wetlands adjacent to other wetlands. (33 CFR 328.3 (a)(7))
- The presence of an isolated water (e.g., intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds).
- Other:
- Section 10 waterway.

**Information Reviewed**

- U. S. Fish and Wildlife Service National Wetland Inventory: CHANNAHON.
- U. S. Geological Survey Hydrologic Atlas: CHANNAHON, 362.
- USDA Natural Resources Conservation Service Soil Survey for Will County.
- U. S. Geological Survey 7.5-Minute Topographic Maps: CHANNAHON, 1993.
- U. S. Geological Survey 7.5-Minute Historic Quadrangles: \_\_\_\_\_.
- U. S. Geological Survey 15-Minute Historic Quadrangles: \_\_\_\_\_.
- Aerials (Name & Date):
- Advanced Identification Wetland Maps: \_\_\_\_\_.
- Site Visit Conducted on:
- Other information: May 4, 2007 Wetland Assessment Report performed by Christopher B. Burke Engineering, Ltd. (CBBEL).

**Rationale for Basis (applies to any boxes checked above):** Wetlands 1, 4, 5 and 6 are isolated depressions, many of which were excavated, with no surface water connection to any flowing water of the U.S., and therefore are non-jurisdictional. Wetland/Water of the U.S. #2 and #3, and Water of the U.S. #7 flow directly into the Des Plaines River, which in navigable below the Hoffman Dam in Riverside, Illinois, and therefore are jurisdictional. Wetlands, in order from 1-7, are the following acreages:- 5.7 Ac, 2.9 Ac, 2.2 Ac, 1.7 Ac, 0.2 Ac, 0.3 Ac, and 0.4 Ac.

**Lateral Extent of Jurisdiction (33 CFR 328 and 329):**

- Ordinary High Water Mark indicated by:
- |  |  |
|--|--|
| <input type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> destruction of terrestrial vegetation |
| <input type="checkbox"/> the presence of litter and debris         | <input type="checkbox"/> shelving                              |
| <input type="checkbox"/> changes in the character of soil          | <input type="checkbox"/> other:                                |
| <input checked="" type="checkbox"/> wetland boundary               |  |

**Basis for Declining Jurisdiction:**

- Unable to confirm the presence of waters listed in 33 CFR 328.3(a)(1), 328.3(a)(2), or 328.3(a)(4) through 328.3(a)(7)
  - Area under consideration is likely to have been jurisdictional under pre-SWANCC Migratory Bird Rule criteria
  - Area under consideration is not likely have been jurisdictional under pre-SWANCC Migratory Bird Rule criteria
- Headquarters declined to approve jurisdiction on the basis of 328.3(a)(3) [attach copy of HQ rationale]

**Confirmation of Wetland Boundaries**

- This office concurs with your wetland delineation report dated May 4, 2007, prepared by CBBEL.
- This office does not confirm your wetland boundary

Recommended by: \_\_\_\_\_ Date: 04 APR 08  
Approved by: \_\_\_\_\_ Date: 04 APR 08

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology). Processes for determining wetlands on agricultural lands may vary from methods described in the Corps Wetland Delineation Manual (1987).

<sup>2</sup> Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

**INFORMATION SHEET  
 DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS  
 RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK  
 COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

**DISTRICT OFFICE:** Chicago  
**FILE NUMBER:** LRC-2007-407

**REGULATORY PROJECT MANAGER:** Mike Machalek **Date:** 04 Apr 08

**PROJECT REVIEW/DETERMINATION COMPLETED:** In the office Y (Y/N) **Date:** 04 Apr 08  
 At the project site (Y/N) **Date:**

**PROJECT LOCATION INFORMATION:**

**State:** Illinois  
**County:** Will  
**Center coordinates of site by latitude & longitudinal coordinates:** 41.426/-88.219  
**Approximate size of site/property (including uplands & in acres):** 382 Acres  
**Name of waterway or watershed:** Des Plaines River

**SITE CONDITIONS:**

Type of aquatic resource <sup>1</sup>	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
River	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Stream	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Dry Wash	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Mudflat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Sandflat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Wetlands	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Slough	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Prairie pothole	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Wet meadow	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Playa lake	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Vernal pool	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Natural pond	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Other water (identify type)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors <sup>1</sup> :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is or would be used as habitat by other migratory birds that cross state lines?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is or would be used as habitat for endangered species?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is used to irrigate crops sold in interstate commerce?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<sup>1</sup>Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:** Preliminary  Or Approved

**OPTIONAL ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):**

**LRC-2007-00717****Form Information**

JD Form Type: Isolate/Upland

**Project Location and Background Information**

State	IL - Illinois
County/parish/borough	Will
City	Lockport
Lat	41.592748141584344
Long	-88.01424442818819
Nearest Waterbody	Fiddymment Creek Tributary
TNW into which the aquatic resource flows	Chicago Sanitary and Ship Canal
Watershed or HUC	07120004
Map or diagram available	(Review or Jurisdictional Area)
JD recorded associated sites?	(e.g., offsite mitigation sites, disposal sites, etc.)
Universal Transverse Mercator:	[ ]

**Form Characteristics**

Each characteristic may or may not be available depending on the form type chosen.

**Isolate/Upland Form**

Instructions: Click Next to associate the pre-populated dates to your form. To change the dates, click in the field to access the calendar and select your new date(s). Click Next to continue.

**Dates**

JD Sequence: 1

Office Determination Date 28-Mar-2008

Field Determination Date(s)

Request Date 05-Oct-2007

**Offsite**

Area

Linear

Limits basis [ ]

OHWM Elevation (if known)

**No Jurisdiction Determination***USACE has no jurisdiction*

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain Wetland (0.58 Ac.) is not neighboring, abutting or contiguous to Fiddymment Creek or any of its tributaries. Wetland is depressional, and has no surface connection to the creek.

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):

APPROVED JURISDICTIONAL DETERMINATION DECISION DOCUMENT

U.S. Army Corps of Engineers, Chicago District

APPLICANT: Inland Development Ventures, LLC PROJECT LOCATION/WATERWAY: North of Jericho Road and West of Bertram Road in Sugar Grove Township, Kane County, Illinois / Rob Roy Creek

FILE NUMBER: LRC-2007-264 PROJECT REVIEW COMPLETED: [X] Office [ ] Field

Approved Jurisdictional Determination (JD) (For sites regulated under 33 CFR 320-330). An approved JD is an appealable action. (33 CFR 331.2)

Based on available information:

- [X] There are no waters on the project site.
[ ] There are non-jurisdictional waters on the project site.
[ ] There are waters of the United States on the project site.
[ ] There are both waters of the United States and non-jurisdictional waters on the project site.

Basis of Jurisdictional Determination:

- [ ] There are no jurisdictional waters of the United States present on the project site.
[ ] The presence of waters which are currently used, or were used in the past, or may be susceptible for use to transport interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide (i.e., navigable waters of the U.S.) (33 CFR 328.3(a)(1))
[ ] The presence of interstate waters (including interstate wetlands^1). (33 CFR 328.3 (a)(2))
[ ] The presence of a tributary to an interstate water or other water of the US. (33 CFR 328.3 (a)(5))
[ ] The presence of wetlands adjacent^2 ( bordering, contiguous, or neighboring) to interstate or other waters of the US, except for those wetlands adjacent to other wetlands. (33 CFR 328.3 (a)(7))
[X] The presence of an isolated water (e.g., intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds).
[ ] Other:
[ ] Section 10 waterway.

Information Reviewed

- [X] U. S. Fish and Wildlife Service National Wetland Inventory: YORKVILLE.
[ ] U. S. Geological Survey Hydrologic Atlas:
[X] USDA Natural Resources Conservation Service Soil Survey for Kane County.
[X] U. S. Geological Survey 7.5 Minute Topographic Maps: YORKVILLE, 1993.
[ ] U. S. Geological Survey 7.5 Minute Historic Quadrangles:
[ ] U. S. Geological Survey 15 Minute Historic Quadrangles:
[ ] Aerial Photographs (Name & Date):
[X] Advanced Identification Wetland Maps: KANE COUNTY
[ ] Site Visit Conducted on:
[X] Other information: April 4, 2007 Wetland Delineation Report by EnCAP, Inc.

Rationale for Basis (applies to any boxes checked above): The subject wetlands are in the headwaters area of Rob Roy Creek. All areas are farmed and tiled, with no visible surface inlet; and are about 1/2 mile to the nearest tributary of the creek with no surface water connection, and therefore are non-jurisdictional.

Lateral Extent of Jurisdiction (33 CFR 328 and 329):

- Ordinary High Water Mark indicated by:
[ ] clear, natural line impressed on the bank
[ ] the presence of litter and debris
[ ] changes in the character of soils
[ ] wetland boundary
[ ] destruction of terrestrial vegetation
[ ] shelving
[ ] other:

Basis for Declining Jurisdiction:

- [X] Unable to confirm the presence of waters listed in 33 CFR 328.3(a)(1), 328.3(a)(2), or 328.3(a)(4) through 328.3(a)(7)
[X] Area under consideration is likely to have been jurisdictional under pre-SWANCC Migratory Bird Rule criteria
[ ] Area under consideration is not likely have been jurisdictional under pre-SWANCC Migratory Bird Rule criteria
[ ] Headquarters declined to approve jurisdiction on the basis of 328.3(a)(3) [attach copy of HQ rationale]

Confirmation of Wetland Boundaries

- [ ] This office concurs with your wetland delineation report dated , prepared by .
[X] This office does not confirm your wetland boundary.

Recommended by: [Signature] Date: 24 APR 08

Approved by: [Signature] Date: 25 APR 08

^1Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology). Processes for determining wetlands on agricultural lands may vary from methods described in the Corps Wetland Delineation Manual (1987).

^2 Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

**INFORMATION SHEET**  
**DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS**  
**RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK**  
**COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

**DISTRICT OFFICE:** Chicago  
**FILE NUMBER:** LRC-2007-264

**REGULATORY PROJECT MANAGER:** Mike Machalek **Date:** 24 April 2008

**PROJECT REVIEW/DETERMINATION COMPLETED:** In the office Y (Y/N) **Date:** 24 April 2008  
 At the project site (Y/N) **Date:**

**PROJECT LOCATION INFORMATION:**

**State:** Illinois  
**County:** Kane  
**Center coordinates of site by latitude & longitudinal coordinates:** 41.73245  
**Approximate size of site/property (including uplands & in acres):** -88.42628  
**Name of waterway or watershed:** Rob Roy Creek

**SITE CONDITIONS:**

Type of aquatic resource <sup>1</sup>	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>				
River	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>				
Stream	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>				
Dry Wash	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>				
Mudflat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>				
Sandflat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>				
Wetlands	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>				
Slough	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>				
Prairie pothole	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>				
Wet meadow	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>				
Playa lake	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>				
Vernal pool	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>				
Natural pond	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>				
Other water (identify type)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
<u>Farmed Wetland</u>									

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors <sup>1</sup> :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is or would be used as habitat by other migratory birds that cross state lines?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is or would be used as habitat for endangered species?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is used to irrigate crops sold in interstate commerce?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<sup>1</sup>Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:** Preliminary  Or Approved

**OPTIONAL ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):**

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

**SECTION I: BACKGROUND INFORMATION**

---

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, LRC-2007-00683-JD1

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State : IL - Illinois  
 County/parish/borough: Lake  
 City: Zion  
 Lat: 42.463346  
 Long: -87.86873  
 Universal Transverse Mercator: []  
 Name of nearest waterbody: Kellogg Ravine  
 Name of nearest Traditional Navigable Water (TNW): Lake Michigan  
 Name of watershed or Hydrologic Unit Code (HUC): 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 the action and are recorded on a different JD form.

**D. REVIEW PERFORMED FOR SITE EVALUATION:**

Office Determination Date: 25-Mar-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:<sup>1</sup>**

Water Name	Water Type(s) Present
Wetland 3	Uplands

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

Area:

Linear:

**c. Limits (boundaries) of jurisdiction:**

based on:

OHWM Elevation: (if known)

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

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

**SECTION III: CWA ANALYSIS**

---

**A. TNWs AND WETLANDS ADJACENT TO TNWs**

**1. TNW**

Not Applicable.

**2. Wetland Adjacent to TNW**

Not Applicable.

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

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

**(i) General Area Conditions:**

Watershed size:

Drainage area:

Average annual rainfall: inches

Average annual snowfall: inches

**(ii) Physical Characteristics**

**(a) Relationship with TNW:**

Tributary flows directly into TNW.

Tributary flows through  tributaries before entering TNW.

:Number of tributaries

Project waters are  river miles from TNW.

Project waters are  river miles from RPW.

Project Waters are  aerial (straight) miles from TNW.

Project waters are  aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

Explain:

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

**Tributary Stream Order, if known:**

Not Applicable.

**(b) General Tributary Characteristics:****Tributary is:**

Not Applicable.

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

Not Applicable.

**Primary tributary substrate composition:**

Not Applicable.

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

Not Applicable.

**(c) Flow:**

Not Applicable.

**Surface Flow is:**

Not Applicable.

**Subsurface Flow:**

Not Applicable.

**Tributary has:**

Not Applicable.

**If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction:****High Tide Line indicated by:**

Not Applicable.

**Mean High Water Mark indicated by:**

Not Applicable.

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

Not Applicable.

**(iv) Biological Characteristics. Channel supports:**

Not Applicable.

**2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW****(i) Physical Characteristics:****(a) General Wetland Characteristics:****Properties:**

Not Applicable.

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

Not Applicable.

**Surface flow is:**  
Not Applicable.

**Subsurface flow:**  
Not Applicable.

**(c) Wetland Adjacency Determination with Non-TNW:**  
Not Applicable.

**(d) Proximity (Relationship) to TNW:**  
Not Applicable.

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

**(iii) Biological Characteristics. Wetland supports:**  
Not Applicable.

**3. Characteristics of all wetlands adjacent to the tributary (if any):**  
All wetlands being considered in the cumulative analysis:  
Not Applicable.

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

## C. SIGNIFICANT NEXUS DETERMINATION

---

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

Significant Nexus: Not Applicable

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

---

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

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

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

**3. Non-RPWs that flow directly or indirectly into TNWs:<sup>8</sup>**

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

**7. Impoundments of jurisdictional waters:<sup>9</sup>**

Not Applicable.

**E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS:<sup>10</sup>**

Not Applicable.

**Identify water body and summarize rationale supporting determination:**

Not Applicable.

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

Not Applicable.

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

If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements:

Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce:

Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR):

Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (Explain):

Other (Explain):

Detention basin (0.58 Ac) constructed in upland is exempt from regulations.

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

Not Applicable.

**Provide acreage estimates for non-jurisdictional waters in the review area, that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.**

Not Applicable.

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

<sup>2</sup>-For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least  $\frac{1}{2}$  seasonally  $\frac{1}{2}$  (e.g., typically 3 months).

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

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

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

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

<sup>7</sup>-:bid.

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

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

<sup>10</sup>-Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.