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): July 22, 2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-51

C. PROJECT LOCATION AND BACKGROUND INFORMATION: 1846 Bilter
State: Illinois County/parish/borough: Kane City: Aurora Township Center coordinates of site (lat/long in degree decimal format): Lat. 41.806916°N, Long. -88.271386° W. Universal Transverse Mercator: NAD 83

Name of nearest waterbody: Indian Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: 265 River
Name of watershed or Hydrologic Unit Code (HUC): 601501301001

☐ 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: 6/27/2008
☐ Field Determination. Date(s): 5/23/2008

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

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


B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There are “waters of the U.S.” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.
   a. Indicate presence of waters of U.S. in review area (check all that apply): 1
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☐ Relatively permanent waters (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: Field
   Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable): 3
   ☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain: An approximately 0.2 acre on-site, closed depressional wetland, had existed on the project site. Local authorities are investigating unauthorized fill activities. The wetland has no surface water connection to a navigable waterway. The wetland extends offsite to the east, with water and wetland plants clearly visible next to obvious fill.

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1 Boxes checked below shall be supported by completing the appropriate sections in Section III below.
2 For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least “seasonally” (e.g., typically 3 months).
3 Supporting documentation is presented in Section III.F.
SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW
Identify TNW: ___________.


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

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

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

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

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

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

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

(i) General Area Conditions:
Watershed size: ___________.
Drainage area: ___________.
Average annual rainfall: ___________.
Average annual snowfall: ___________.

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

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

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

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4 Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
5 Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
(b) **General Tributary Characteristics (check all that apply):**

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

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

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

**Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:**  
Presence of run/riffle/pool complexes. Explain:  

**Tributary geometry:**  

**Tributary gradient (approximate average slope):** %  

(c) **Flow:**  

**Tributary provides for:**  

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

**Describe flow regime:**  

**Other information on duration and volume:**  

**Surface flow is:**  

**Characteristics:**  

**Subsurface flow:**  

**Explain findings:**  

☐ Dye (or other) test performed:  

**Tributary has (check all that apply):**  

☐ Bed and banks  
☐ OHWM\(^6\) (check all indicators that apply):  
☐ clear, natural line impressed on the bank  
☐ changes in the character of soil  
☐ shelving  
☐ vegetation matted down, bent, or absent  
☐ leaf litter disturbed or washed away  
☐ sediment deposition  
☐ water staining  
☐ other (list):  

☐ Discontinuous OHWM.\(^7\) Explain:  

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):  

☐ High Tide Line indicated by:  

☐ Mean High Water Mark indicated by:  

☐ oil or scum line along shore objects  
☐ fine shell or debris deposits (foreshore)  
☐ physical markings/characteristics  
☐ 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:  

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

\(^7\) Ibid.
(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: [_________]. Explain: 
Surface flow is: [_________].
Characteristics: 
Subsurface flow: [_________]. 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 [_________] river miles from TNW. 
Project waters are [_________] aerial (straight) miles from TNW. 
Flow is from: [_________].
Estimate approximate location of wetland as within the [_________] 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: [_________].
Approximately (_________) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

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

Summarize overall biological, chemical and physical functions being performed: ____________________________

C. **SIGNIFICANT NEXUS DETERMINATION**

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

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

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

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

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

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

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: ________

5
Provide estimates for jurisdictional waters in the review area (check all that apply):

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

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

   Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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

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

   Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

   - Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:  

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

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

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

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

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

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

   Wetlands adjacent to such waters, and 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.**

   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):**

   - 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:  

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8See Footnote # 3.  
9To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.  
10Prior 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: .
- 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: approximately on and off-site, 0.5 acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction (check all that apply):
- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply) - checked items shall be included in case file and, where checked and requested, appropriately referenced sources below):
- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Aerial Photograph from Google.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- Office concurs with data sheets/delineation report.
- Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: .
- Corps navigable waters’ study: .
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- National wetlands inventory map(s). Cite name: Aurora North.
- State/Local wetland inventory map(s): Kane County AWD, Illinois.
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting scientific literature: .
- Other information (please specify): County 2' topography.

B. ADDITIONAL COMMENTS TO SUPPORT JD: The wetland is less than 0.5 acres in size, with approximately 0.2 acres on the subject property (approximation from aerial photograph). It is a closed depressional wetland, with no surface water connection to a navigable waterway. It has been filled, and the wetland is clearly visible at the property boundary at the edge of the fill. The property is currently undergoing a local investigation on unauthorized fill.
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): July 15, 2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, Sunrise Development JD, LRC-2008-70

C. PROJECT LOCATION AND BACKGROUND INFORMATION: 5-Acre property located north of 159th Street, west of 108th Avenue

State: Illinois County/parish/borough: Cook City: Orland Park
Center coordinates of site (lat/long in degree decimal format): Lat. 41.601003°N, Long. -87.884587°W.
Universal Transverse Mercator: NAD 83

Name of nearest waterbody: Spring Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
Name of watershed or Hydrologic Unit Code (HUC): 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: July 14, 2008
☐ Field Determination. Date(s): June 27, 2008

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

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

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There are “waters of the U.S.” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.
   a. Indicate presence of waters of U.S. in review area (check all that apply): 1

   ☐ TNWs, including territorial seas
   ☐ Wetlands adjacent to TNWs
   ☐ Relatively permanent waters (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: 2
      [Describe]
      Elevation of established OHIWM (if known):

   2. Non-regulated waters/wetlands (check if applicable): 3
      ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
      Explain: Wetland drains offsite to a depressional, isolated wetland. The wetland has no identifiable connection to a TNW.

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1 Boxes checked below shall be supported by completing the appropriate sections in Section III below.
2 For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least “seasonally” (e.g., typically 3 months).
3 Supporting documentation is presented in Section III.F.
SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW
   Identify TNW: 

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 a 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\(^4\) is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

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

   (i) General Area Conditions:
      Watershed size: 
      Drainage area: 
      Average annual rainfall: inches
      Average annual snowfall: inches

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

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

         Identify flow route to TNW\(^5\):
         Tributary stream order, if known:

\(^4\) Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

\(^5\) Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
(b) General Tributary Characteristics (check all that apply):
Tributary is: □ Natural

Tributary properties with respect to top of bank (estimate):
Average width: feet
Average depth: feet
Average side slopes: 1:3:1.0

Primary tributary substrate composition (check all that apply):
□ Silts
□ Sands
□ Concretes
□ Cobbles
□ Gravel
□ Muck
□ Bedrock
□ Vegetation. Type/cover:
□ Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .
Tributary geometry: □ Riffle
□ Pool
□ Gradient (approximate average slope): %

(c) Flow:
Tributary provides for: □ Riffle
□ Pool
Estimate average number of flow events in review area/year: □ Riffle.
Describe flow regime:
Other information on duration and volume:
Surface flow is: □ Riffle. Characteristics:
Subsurface flow: □ Pool. Explain findings:
□ Dye (or other) test performed: .

Tributary has (check all that apply):
□ Bed and banks
□ OHWM (check all indicators that apply):
□ clear, natural line impressed on the bank
□ 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, e.g., 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. 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: .

---

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

7 Ibid.
(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: ______. Explain:
   Surface flow is: ______. Characteristics:
   Subsurface flow: ______. 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 ______ river miles from TNW.
   Project waters are ______ aerial (straight) miles from TNW.
   Flow is from: ______.
   Estimate approximate location of wetland as within the ______ 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: ______.
   Approximately (______) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

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

Summarize overall biological, chemical and physical functions being performed: .

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a 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: .

5
Provide estimates for jurisdictional waters in the review area (check all that apply):

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

Identify type(s) of waters: .

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

   Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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

Identify type(s) of waters: .

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

   Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

   Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

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

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

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

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

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

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

   Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

7. **Impoundments of jurisdictional waters.**

   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):**

   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: .

---

8 See Footnote # 3.
9 To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
10 Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.
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: Wetland does not have an identifiable impact on the biological, chemical integrity of a TNW.
- 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: 0.5 acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):
- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- Office concurs with data sheets/delineation report.
- Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:.
- Corps navigable waters’ study:.
- U.S. Geological Survey Hydrologic Atlas:.
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Mokena Quad
- USDA Natural Resources Conservation Service Soil Survey. Citation: [citation]
- National wetlands inventory map(s). Cite name:.
- State/Local wetland inventory map(s): [citation]. [citation]. [citation].
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: ☐ Aerial (Name & Date):.
- ☐ Other (Name & Date):.
- Previous determination(s). File no. and date of response letter:.
- Applicable/supporting scientific literature:.
- Other information (please specify):.

B. ADDITIONAL COMMENTS TO SUPPORT JD:.

7
APPLICANT: Gas City, Inc. PROJECT LOCATION/WATERWAY: North of Route 6 and East of Cedar Road in New Lenox, Will County, Illinois / Hickory Creek Watershed
FILE NUMBER: LRC-2007-125 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 wetlands1). (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 adjacent2 (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 (i.e., 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: MOKENA.
☒ USDA Natural Resources Conservation Service Soil Survey for Will County.
☒ 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: December 16, 2006 Wetland Report by CBBEL.

Rationale for Basis (applies to any boxes checked above): The subject wetland 1 and wetland 2 are isolated depressions at the start of the watershed break, and have no surface water connection to any other flowing water of the U.S.; therefore, the subject wetlands 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 ☑ destruction of terrestrial vegetation
☒ the presence of litter and debris ☒ shelving
☒ changes in the character of soil ☒ other:
☒ 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 to 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 ______.
☒ This office does not confirm your wetland boundary

Recommended by: __________________________ Date: __________

Approved by: __________________________ Date: __________

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-2007-125

REGULATORY PROJECT MANAGER: Mike Machalek Date: 08 July 08

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

PROJECT LOCATION INFORMATION:
State: Illinois
County: Will
Center coordinates of site by latitude & longitudinal coordinates: 41.325539/-87.571694
Approximate size of site/property (including uplands & in acres): 4.0
Name of waterway or watershed: Hickory Creek

SITE CONDITIONS:

<table>
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<th>Type of aquatic resource</th>
<th>0-1 ac</th>
<th>1-3 ac</th>
<th>3-5 ac</th>
<th>5-10 ac</th>
<th>10-25 ac</th>
<th>25-50 ac</th>
<th>&gt; 50 ac</th>
<th>Linear feet</th>
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<td>Wet meadow</td>
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</tbody>
</table>

1Check 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:

<table>
<thead>
<tr>
<th>If Known</th>
<th>If Unknown</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use Best Professional Judgment</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is or would be used as habitat for birds protected by Migratory Bird Treaties?</th>
<th>Yes</th>
<th>No</th>
<th>Predicted to Occur</th>
<th>Not Expected to Occur</th>
<th>Not Able To Make Determination</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is or would be used as habitat by other migratory birds that cross state lines?</td>
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<td></td>
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<tr>
<td>Is or would be used as habitat for endangered species?</td>
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<tr>
<td>Is used to irrigate crops sold in interstate commerce?</td>
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</tbody>
</table>

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):
SECTION I: BACKGROUND INFORMATION

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

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00301-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: IL - Illinois
County/parish/borough: McHenry
City: Union
Lat: 42.18658697502156
Long: -88.4982429551947
Universal Transverse Mercator: [ ]
Name of nearest waterbody: S. Br. Kishwaukee River
Name of nearest Traditional Navigable Water (TNW): Rock River
Name of watershed or Hydrologic Unit Code (HUC): 07090006

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

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 17-Jun-2008

Field Determination Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

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

Waters subject to the ebb and flow of the tide.

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

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.
There [ ] "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.
   a. Indicate presence of waters of U.S. in review area:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Water Type(s) Present</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 1</td>
<td>Isolated (interstate or intrastate) waters, including isolated wetlands</td>
</tr>
</tbody>
</table>

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

   Area: (m²)
   Linear: (m)

   c. Limits (boundaries) of jurisdiction:

   based on: [ ]
   OHWM Elevation: (if known)

   2. Non-regulated waters/wetlands:

   Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:
   The subject pond with wetland fringe (0.25ac), was created out of a depressional hydric soil feature. There is no drainage off-site or other connection to a flowing waterbody; therefore the subject wetland is isolated and non-jurisdictional.

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.\textsuperscript{5}

Tributary Stream Order, if known:
Not Applicable.

(b) General Tributary Characteristics:
Tributary is:
Not Applicable.

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

Primary tributary substrate composition:
Not Applicable.

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

(c) Flow:
Not Applicable.

Surface Flow is:
Not Applicable.

Subsurface Flow:
Not Applicable.

Tributary has:
Not Applicable.

If factors other than the 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: 8
Not Applicable.

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters: 9
Not Applicable.

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

<table>
<thead>
<tr>
<th>Waters Name</th>
<th>Interstate/Foreign Travelers</th>
<th>Fish/Shellfish Commerce</th>
<th>Industrial Commerce</th>
<th>Interstate Isolated</th>
<th>Explain</th>
<th>Other Factors</th>
<th>Exj</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Identify water body and summarize rationale supporting determination:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Adjacent To TNW Rationale</th>
<th>TNW Rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 1</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Provide estimates for jurisdictional waters in the review area:
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 factors (ie., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Type</th>
<th>Size (Linear) (m)</th>
<th>Size (Area)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 1</td>
<td>Isolated (interstate or intrastate) waters, including isolated wetlands</td>
<td>-</td>
<td>1011.714</td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td>0</td>
<td>1011.714</td>
</tr>
</tbody>
</table>

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

Not Applicable.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD
(listed items shall be included in case file and, where checked and requested, appropriately reference below):

<table>
<thead>
<tr>
<th>Data Reviewed</th>
<th>Source Label</th>
<th>Source Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Data sheets prepared/submitted by or on behalf of the applicant/consultant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office concurs with data sheets/delineation report</td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S. Geological Survey Hydrologic Atlas</td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S. Geological Survey map(s).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>USDA Natural Resources Conservation Service Soil Survey.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>National wetlands inventory map(s).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State/Local wetland inventory map(s):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FEMA/FIRM maps</td>
<td></td>
<td></td>
</tr>
<tr>
<td>100-year Floodplain Elevation is:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
B. ADDITIONAL COMMENTS TO SUPPORT JD:

<table>
<thead>
<tr>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>The subject wetland is part of a depressional landscape feature.</td>
</tr>
</tbody>
</table>

1. Boxes checked below shall be supported by completing the appropriate sections in Section III below.
2. For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
3. Supporting documentation is presented in Section III.F.
4. Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
5. Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
6. A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
7. Ibid.
8. See Footnote #3.
9. To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
10. Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.
SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 16-Jun-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00300-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: IL - Illinois
County/parish/borough: Will
City: Bolingbrook
Lat: 41.71233916092056
Long: -88.04090353970861
Universal Transverse Mercator: [ ]
Name of nearest waterbody: Lily Cache Creek
Name of nearest Traditional Navigable Water (TNW): Des Plaines River
Name of watershed or Hydrologic Unit Code (HUC): 07120004

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

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 17-Jun-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.
1. Waters of the U.S.
   a. Indicate presence of waters of U.S. in review area:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Water Type(s) Present</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farmed Wetland 1</td>
<td>Isolated (interstate or intrastate) waters, including isolated wetlands</td>
</tr>
<tr>
<td>Wetland A</td>
<td>Isolated (interstate or intrastate) waters, including isolated wetlands</td>
</tr>
</tbody>
</table>

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

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

2. Non-regulated waters/wetlands:
   Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: Both the small 0.36 acre wetland, and the 0.25 acre farmed wetland are depressional features with no visible outlets or connection to Lily Cache Creek to the north; and therefore are isolated and non-jurisdictional.

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.\(^5\)

**Tributary Stream Order, if known:**
Not Applicable.

(b) **General Tributary Characteristics:**
**Tributary is:**
Not Applicable.

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

**Primary tributary substrate composition:**
Not Applicable.

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

(c) **Flow:**
Not Applicable.

**Surface Flow is:**
Not Applicable.

**Subsurface Flow:**
Not Applicable.

**Tributary has:**
Not Applicable.

If factors other than the 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:
   Not Applicable.

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters:
   Not Applicable.

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

<table>
<thead>
<tr>
<th>Waters Name</th>
<th>Interstate/Foreign Travelers</th>
<th>Fish/Shellfish Commerce</th>
<th>Industrial Commerce</th>
<th>Interstate Isolated</th>
<th>Explain</th>
<th>Other Factors</th>
<th>Ex</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farmed Wetland 1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Wetland A</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Identify water body and summarize rationale supporting determination:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Adjacent To TNW Rationale</th>
<th>TNW Rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farmed Wetland 1</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Wetland A</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>
Provide estimates for jurisdictional waters in the review area:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Type</th>
<th>Size (Linear) (m)</th>
<th>Size (Area)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farmed Wetland 1</td>
<td>Isolated (interstate or intrastate) waters, including isolated wetlands</td>
<td>-</td>
<td>1011.714</td>
</tr>
<tr>
<td>Wetland A</td>
<td>Isolated (interstate or intrastate) waters, including isolated wetlands</td>
<td>-</td>
<td>1456.8681</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td></td>
<td><strong>0</strong></td>
<td><strong>2468.5821</strong></td>
</tr>
</tbody>
</table>

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 factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Type</th>
<th>Size (Linear) (m)</th>
<th>Size (Area)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farmed Wetland 1</td>
<td>Isolated (interstate or intrastate) waters, including isolated wetlands</td>
<td>-</td>
<td>1011.714</td>
</tr>
<tr>
<td>Wetland A</td>
<td>Isolated (interstate or intrastate) waters, including isolated wetlands</td>
<td>-</td>
<td>1456.8681</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td></td>
<td><strong>0</strong></td>
<td><strong>2468.5821</strong></td>
</tr>
</tbody>
</table>

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

Not Applicable.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD
(listed items shall be included in case file and, where checked and requested, appropriately reference below):

<table>
<thead>
<tr>
<th>Data Reviewed</th>
<th>Source Label</th>
<th>Source Descriptive</th>
</tr>
</thead>
<tbody>
<tr>
<td>--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>--U.S. Geological Survey Hydrologic Atlas</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>--U.S. Geological Survey map(s).</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>--USDA Natural Resources Conservation Service Soil Survey.</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>--National wetlands inventory map(s).</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>--FEMA/FIRM maps</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>--Photographs</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>----Aerial</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>
B. ADDITIONAL COMMENTS TO SUPPORT JD:

<table>
<thead>
<tr>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>The property is bounded on the north and east sides by raised roadways with no culverts to connect the wetlands to the creek to the north.</td>
</tr>
</tbody>
</table>

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

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

3-Supporting documentation is presented in Section III.F.

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

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

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

7-Ibid.

8-See Footnote #3.

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

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

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIOINAL DETERMINATION (JD): 07-Jul-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00335-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: IL - Illinois
   County/parish/borough: DuPage
   City: Wayne
   Lat: 41.947975794293534
   Long: -88.26297579544008
   Universal Transverse Mercator: [ ]
   Name of nearest waterbody: Norton Creek Tributary
   Name of nearest Traditional Navigable Water (TNW): Fox River
   Name of watershed or Hydrologic Unit Code (HUC): 07120007

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: 07-Jul-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:
      
      | Water Name | Water Type(s) Present |
      |------------|-----------------------|
      | Wetland 2  | Isolated (interstate or intrastate) waters, including isolated wetlands |

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

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

2. Non-regulated waters/wetlands:

   Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: 
   The subject 1.16 Acre depressional and sometimes farmed wetland is separated from the tributary by 50-100 feet, and has no surface flow connection to the tributary; therefore, it is isolated and non-jurisdictional. 

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW
   Not Applicable.

2. Wetland Adjacent to TNW
   Not Applicable.

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

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

   (I) General Area Conditions:
   Watershed size: []
   Drainage area: []
   Average annual rainfall: inches
   Average annual snowfall: inches

   (II) Physical Characteristics
   (a) Relationship with TNW:
      Tributary flows directly into TNW.
      Tributary flows through [] tributaries before entering TNW.
      Number of tributaries
      Project waters are [] river miles from TNW.
      Project waters are [] river miles from RPW.
      Project Waters are [] aerial (straight) miles from TNW.
Project waters are [ ] aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.
Explain:
Identify flow route to TNW:*

Tributary Stream Order, if known:
Not Applicable.

(b) General Tributary Characteristics:
Tributary is:
Not Applicable.

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

Primary tributary substrate composition:
Not Applicable.

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

(c) Flow:
Not Applicable.

Surface Flow is:
Not Applicable.

Subsurface Flow:
Not Applicable.

Tributary has:
Not Applicable.

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

High Tide Line indicated by:
Not Applicable.

Mean High Water Mark indicated by:
Not Applicable.

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

(iv) Biological Characteristics. Channel supports:
Not Applicable.
2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:
(a) General Wetland Characteristics:
Properties:
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:8
   Not Applicable.

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters:9
   Not Applicable.

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

<table>
<thead>
<tr>
<th>Waters Name</th>
<th>Interstate/Foreign Travelers</th>
<th>Fish/Shel/Shellfish Commerce</th>
<th>Industrial Commerce</th>
<th>Interstate Isolated</th>
<th>Explain</th>
<th>Other Factors</th>
<th>Exj</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 2</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Identify water body and summarize rationale supporting determination:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Adjacent To TNW Rationale</th>
<th>TNW Rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 2</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Provide estimates for jurisdictional waters in the review area:
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 factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Type</th>
<th>Size (Linear) (m)</th>
<th>Size (Area)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 2</td>
<td>Isolated (interstate or intrastate) waters, including isolated wetlands</td>
<td>-</td>
<td>4694.35296</td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td>0</td>
<td>4694.35296</td>
</tr>
</tbody>
</table>

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

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD
(listed items shall be included in case file and, where checked and requested, appropriately reference below): Not Applicable.

B. ADDITIONAL COMMENTS TO SUPPORT JD:
Not Applicable.

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1. Boxes checked below shall be supported by completing the appropriate sections in Section III below.
2. For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
3. Supporting documentation is presented in Section III.F.
4. Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
5. Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then

---
flows into TNW.

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

7. Ibid.

8. See Footnote #3.

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

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