

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

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 07-Oct-2009

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, LRC-2009-00404-JD1

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

**State :** IL - Illinois  
**County/parish/borough:** McHenry  
**City:** Crystal Lake  
**Lat:** 42.19222  
**Long:** -88.33655  
**Universal Transverse Mercator** Folder UTM List  
*UTM list determined by folder location*  
 • NAD83 / UTM zone 38S  
Waters UTM List  
*UTM list determined by waters location*  
 • NAD83 / UTM zone 38S  
**Name of nearest waterbody:** Tributary to Woods Creek  
**Name of nearest Traditional Navigable Water (TNW):** Fox River  
**Name of watershed or Hydrologic Unit Code (HUC):** Fox River

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-Oct-2009
- Field Determination Date(s): 11-Aug-2009  
28-Aug-2009

**SECTION II: SUMMARY OF FINDINGS**

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

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

Waters subject to the ebb and flow of the tide.

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

**Explain:**

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

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

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

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

Water Name	Water Type(s) Present
LRC-2009-404 Wetland 4	Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs

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

**Area:** (m<sup>2</sup>)

**Linear:** (m)

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

**based on:** 1987 Delineation Manual.  
**OHWM Elevation:** (if known)

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

**Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:**  
The wetland formed in a currently functioning sediment basin. It is therefore exempt from jurisdiction.

**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:** 35319 acres  
**Drainage area:** 10 acres  
**Average annual rainfall:** 36 inches  
**Average annual snowfall:** 34 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** 2-5 river miles from TNW.

**Project waters are** 1 (or less) river miles from RPW.

**Project Waters are** 2-5 aerial (straight) miles from TNW.

**Project waters are** 1 (or less) aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

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

Water discharges through a pipe in the southwestern corner of the sediment basin/wetland. Water flows from this point into a tributary to Woods Creel, which flows in the Lake in the Hills, which discharges to Woods Creek, which is tributary to the Fox River (TNW).

**Tributary Stream Order, if known:**

Not Applicable.

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

Not Applicable.

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

Not Applicable.

**Primary tributary substrate composition:**

Not Applicable.

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

Not Applicable.

**(c) Flow:**

Not Applicable.

**Surface Flow is:**

Not Applicable.

**Subsurface Flow:**

Not Applicable.

**Tributary has:**

Not Applicable.

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

**High Tide Line indicated by:**

Not Applicable.

**Mean High Water Mark indicated by:**

Not Applicable.

**(iii) Chemical Characteristics:**

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

Not Applicable.

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

Not Applicable.

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

**(i) Physical Characteristics:**

**(a) General Wetland Characteristics:**

**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:**

Wetland Name	Directly Abuts	Size (Area) (m <sup>2</sup> )
LRC-2009-404 Wetland 4	No	4046.856
<b>Total:</b>		<b>4046.856</b>

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

Wetland Name	Functional Summary
LRC-2009-404 Wetland 4	The wetland provides detention and a slow release of water to the tributary. This allows sediments to drop out of the water prior to discharge. This wetland is thought to have water quality benefits for the water that is discharged through the removal of suspended sediments.

**C. SIGNIFICANT NEXUS DETERMINATION**

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

**Findings for: LRC-2009-404 Wetland 4**

No significant nexus determination was completed. This wetland is exempt from jurisdiction because the wetland developed in uplands and was the result of the construction of a currently functioning sediment basin. The sediment basin was created due to a court settlement between the developer and the Village of Lake in the Hills as a result of sediment being discharged from the site into the tributary to Woods Creek. Wetland 4 was created in what was previously uplands and was intended to be a sediment basin until the site was developed. It has served this purpose since its construction in 1990. The outlet was installed through a berm in the southwest corner of the basin to allow drainage when water reached an elevation 2-2.5 feet. The wetland has formed in this area due to ponding of water over the last 19 years.

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

**1. TNWs and Adjacent Wetlands:**

Not Applicable.

**2. RPWs that flow directly or indirectly into TNWs:**

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
LRC-2009-404 Wetland	Wetlands adjacent to but not directly abutting RPWs that flow directly or	-	4046.856

4	indirectly into TNWs		
<b>Total:</b>		<b>0</b>	<b>4046.856</b>

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

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

**7. Impoundments of jurisdictional waters:<sup>9</sup>**  
Not Applicable.

**E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS:<sup>10</sup>**  
Not Applicable.

**Identify water body and summarize rationale supporting determination:**  
Not Applicable.

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

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

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

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

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

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

Other (Explain):

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

Water Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
LRC-2009-404 Wetland 4	Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs	-	4046.856
<b>Total:</b>		<b>0</b>	<b>4046.856</b>

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

**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):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	NWI Wetland Map	Does not identify wetland 4
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Wetland Summary Table	-
--Maps, plans, plots or plat submitted by or on behalf of the	ADID wetland	Does not identify wetland 4

applicant/consultant	map	
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Agreed Order	Village of Lake in the Hills v. Lexington Development Corporation and others. Settlement includes money for the construction of the sediment basin to reduce sediment from construction site into tributary to Woods Creek
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Photographs	From August 28 field visit. Following heavy rains, water is seen exiting the pipe in the southeast corner of wetland 4. Water was not existing through the pipe at the August 11 site inspection.
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Exhibit G	Delineated wetland boundaries on aerial photograph
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Grading Plan	Dated 10-12-87, revised 10-17-88. Sediment basin is identified on plan sheet in area of wetland 4
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Soil Map	Does not identify hydric soils

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**

Not Applicable.

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

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

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

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

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

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

<sup>7</sup>-Ibid.

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

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

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

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

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 07-Oct-2009

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, LRC-2009-00404-JD3

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

**State :** IL - Illinois  
**County/parish/borough:** McHenry  
**City:** Crystal Lake  
**Lat:** 42.19222  
**Long:** -88.33655  
**Universal Transverse Mercator** Folder UTM List  
*UTM list determined by folder location*  
 • NAD83 / UTM zone 38S  
Waters UTM List  
*UTM list determined by waters location*  
 • NAD83 / UTM zone 38S  
**Name of nearest waterbody:** Tributary to Woods Creek  
**Name of nearest Traditional Navigable Water (TNW):** Fox River  
**Name of watershed or Hydrologic Unit Code (HUC):** Fox River

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-Oct-2009  
 Field Determination Date(s): 11-Aug-2009  
 28-Aug-2009

**SECTION II: SUMMARY OF FINDINGS**

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

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

Waters subject to the ebb and flow of the tide.

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

**Explain:**

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

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

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

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

Water Name	Water Type(s) Present
LRC-2009-404 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: (m<sup>2</sup>)  
 Linear: (m)

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

**based on:** 1987 Delineation Manual.  
**OHWM Elevation:** (if known)

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

**Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:**  
Wetland 2 is isolated with no connection to jurisdictional waters. This is an artificial wetland created in uplands from grading operations.

**SECTION III: CWA ANALYSIS****A. TNWs AND WETLANDS ADJACENT TO TNWs****1. TNW**

Not Applicable.

**2. Wetland Adjacent to TNW**

Not Applicable.

**B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):****1. Characteristics of non-TNWs that flow directly or indirectly into TNW****(i) General Area Conditions:**

**Watershed size:** [ ]  
**Drainage area:** [ ]  
**Average annual rainfall:** inches  
**Average annual snowfall:** inches

**(ii) Physical Characteristics****(a) Relationship with TNW:**

Tributary flows directly into TNW.

Tributary flows through [ ] tributaries before entering TNW.

:Number of tributaries

**Project waters are** [ ] river miles from TNW.

**Project waters are** [ ] river miles from RPW.

**Project Waters are** [ ] aerial (straight) miles from TNW.

**Project waters are** [ ] aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

**Explain:**

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

**Tributary Stream Order, if known:**

Not Applicable.

**(b) General Tributary Characteristics:**

**Tributary is:**

Not Applicable.

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

Not Applicable.

**Primary tributary substrate composition:**

Not Applicable.

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

Not Applicable.

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

**Surface Flow is:**  
Not Applicable.

**Subsurface Flow:**  
Not Applicable.

**Tributary has:**  
Not Applicable.

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

**High Tide Line indicated by:**  
Not Applicable.

**Mean High Water Mark indicated by:**  
Not Applicable.

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

**(iv) Biological Characteristics. Channel supports:**  
Not Applicable.

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

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

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

**Flow is:**  
Not Applicable.

**Surface flow is:**  
Not Applicable.

**Subsurface flow:**  
Not Applicable.

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

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

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

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

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

**All wetlands being considered in the cumulative analysis:**  
Not Applicable.

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

**C. SIGNIFICANT NEXUS DETERMINATION**

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

Significant Nexus: Not Applicable

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

1. TNWs and Adjacent Wetlands:  
Not Applicable.

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

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

3. Non-RPWs that flow directly or indirectly into TNWs:<sup>8</sup>  
Not Applicable.

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters:<sup>9</sup>  
Not Applicable.

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

Waters Name	Interstate/Foreign Travelers	Fish/Shellfish Commerce	Industrial Commerce	Interstate Isolated	Explain	Other Factors	Explain
LRC-2009-404 Wetland 2	-	-	-	-	-	-	-

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

Water Name	Adjacent To TNW Rationale	TNW Rationale
LRC-2009-404 Wetland 2	-	-

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

Water Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
LRC-2009-404 Wetland 2	Isolated (interstate or intrastate) waters, including isolated wetlands	-	607.0284
<b>Total:</b>		<b>0</b>	<b>607.0284</b>

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

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

- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce:
- Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR):
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (Explain):

Other (Explain):

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

Water Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
LRC-2009-404 Wetland 2	Isolated (interstate or intrastate) waters, including isolated wetlands	-	607.0284
<b>Total:</b>		<b>0</b>	<b>607.0284</b>

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

**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):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	NWI Wetland Map	Wetland 2 not identified
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Soils map	Hydric soils not present in location of wetland 2
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	ADID Wetland map	Wetland 2 not identified
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Exhibit G	Delineated wetland boundaries

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**

Not Applicable.

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

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

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

<sup>7</sup>-Ibid.

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

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

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

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

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 09-Nov-2009

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, LRC-2008-00560-JD1

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

**State :** IL - Illinois  
**County/parish/borough:** McHenry  
**City:** Aiden Township  
**Lat:** 42.472  
**Long:** -88.55002

**Universal Transverse Mercator**  
Folder UTM List  
*UTM list determined by folder location*  
 • NAD83 / UTM zone 38S  
Waters UTM List  
*UTM list determined by waters location*  
 • NAD83 / UTM zone 38S

**Name of nearest waterbody:** Nippersink Creek  
**Name of nearest Traditional Navigable Water (TNW):** Fox River  
**Name of watershed or Hydrologic Unit Code (HUC):** Fox River

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: 09-Nov-2009

Field Determination Date(s):

**SECTION II: SUMMARY OF FINDINGS**

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

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

Waters subject to the ebb and flow of the tide.

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

Explain:

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

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

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

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

Water Name	Water Type(s) Present
LRC-2008-560 Wetland 3	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-560 Wetland 4	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-560 Wetland 5	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-560 Wetland 6	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-560 Wetland 7	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-560 Wetland 8	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-560 Wetland 9	Isolated (interstate or intrastate) waters, including isolated wetlands

LRC-2008-560 Wetland A	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-560 Wetland B	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-560 Wetland C	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-560 Wetland D	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-560 Wetland E	Isolated (interstate or intrastate) waters, including isolated wetlands

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

Area: (m<sup>2</sup>)

Linear: (m)

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

based on: 1987 Delineation Manual.

OHWM Elevation: (if known)

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

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: Wetlands 3-9 and Wetlands A-E exhibit no surface water connection to jurisdictional waters and are therefore isolated

**SECTION III: CWA ANALYSIS**

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

**1. TNW**

Not Applicable.

**2. Wetland Adjacent to TNW**

Not Applicable.

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

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

**(i) General Area Conditions:**

Watershed size: [ ]

Drainage area: [ ]

Average annual rainfall: inches

Average annual snowfall: inches

**(ii) Physical Characteristics**

**(a) Relationship with TNW:**

Tributary flows directly into TNW.

Tributary flows through [ ] tributaries before entering TNW.

:Number of tributaries

Project waters are [ ] river miles from TNW.

Project waters are [ ] river miles from RPW.

Project Waters are [ ] aerial (straight) miles from TNW.

Project waters are [ ] aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

Explain:

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

**Tributary Stream Order, if known:**

Not Applicable.

**(b) General Tributary Characteristics:**

**Tributary is:**  
Not Applicable.

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

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

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

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

**Surface Flow is:**  
Not Applicable.

**Subsurface Flow:**  
Not Applicable.

**Tributary has:**  
Not Applicable.

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

**High Tide Line indicated by:**  
Not Applicable.

**Mean High Water Mark indicated by:**  
Not Applicable.

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

**(iv) Biological Characteristics. Channel supports:**  
Not Applicable.

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

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

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

**Flow is:**  
Not Applicable.

**Surface flow is:**  
Not Applicable.

**Subsurface flow:**  
Not Applicable.

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

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

**(ii) Chemical Characteristics:**

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

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

Not Applicable.

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

All wetlands being considered in the cumulative analysis:  
Not Applicable.

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

**C. SIGNIFICANT NEXUS DETERMINATION**

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

Significant Nexus: Not Applicable

**D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:****1. TNWs and Adjacent Wetlands:**

Not Applicable.

**2. RPWs that flow directly or indirectly into TNWs:**

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

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

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

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

Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

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

Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

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

Not Applicable.

Provide estimates for jurisdictional wetlands in the review area:

Not Applicable.

**7. Impoundments of jurisdictional waters:**<sup>9</sup>  
Not Applicable.

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

Waters Name	Interstate/Foreign Travelers	Fish/Shellfish Commerce	Industrial Commerce	Interstate Isolated	Explain	Other Factors	Explain
LRC-2008-560 Wetland 3	-	-	-	-	-	-	-
LRC-2008-560 Wetland 4	-	-	-	-	-	-	-
LRC-2008-560 Wetland 5	-	-	-	-	-	-	-
LRC-2008-560 Wetland 6	-	-	-	-	-	-	-
LRC-2008-560 Wetland 7	-	-	-	-	-	-	-
LRC-2008-560 Wetland 8	-	-	-	-	-	-	-
LRC-2008-560 Wetland 9	-	-	-	-	-	-	-
LRC-2008-560 Wetland A	-	-	-	-	-	-	-
LRC-2008-560 Wetland B	-	-	-	-	-	-	-
LRC-2008-560 Wetland C	-	-	-	-	-	-	-
LRC-2008-560 Wetland D	-	-	-	-	-	-	-
LRC-2008-560 Wetland E	-	-	-	-	-	-	-

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

Water Name	Adjacent To TNW Rationale	TNW Rationale
LRC-2008-560 Wetland 3	-	-
LRC-2008-560 Wetland 4	-	-
LRC-2008-560 Wetland 5	-	-
LRC-2008-560 Wetland 6	-	-
LRC-2008-560 Wetland 7	-	-
LRC-2008-560 Wetland 8	-	-
LRC-2008-560 Wetland 9	-	-
LRC-2008-560 Wetland A	-	-
LRC-2008-560 Wetland B	-	-
LRC-2008-560 Wetland C	-	-
LRC-2008-560 Wetland D	-	-
LRC-2008-560 Wetland E	-	-

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

Water Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
LRC-2008-560 Wetland 3	Isolated (interstate or intrastate) waters, including isolated wetlands	-	7810.43208
LRC-2008-560 Wetland 4	Isolated (interstate or intrastate) waters, including isolated wetlands	-	6191.68968
LRC-2008-560 Wetland 5	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1497.33672
LRC-2008-560 Wetland 6	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1740.14808
LRC-2008-560 Wetland 7	Isolated (interstate or intrastate) waters, including isolated wetlands	-	2266.23936
LRC-2008-560 Wetland 8	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1578.27384
LRC-2008-560 Wetland 9	Isolated (interstate or intrastate) waters, including isolated wetlands	-	4370.60448
LRC-2008-560 Wetland A	Isolated (interstate or intrastate) waters, including isolated wetlands	-	3358.89048
LRC-2008-560 Wetland B	Isolated (interstate or intrastate) waters, including isolated wetlands	-	6839.18664
LRC-2008-560 Wetland C	Isolated (interstate or intrastate) waters, including isolated wetlands	-	687.96552
LRC-2008-560 Wetland D	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1092.65112
LRC-2008-560 Wetland E	Isolated (interstate or intrastate) waters, including isolated wetlands	-	5706.06696
<b>Total:</b>		<b>0</b>	<b>43139.48496</b>

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

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

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

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

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

Other (Explain):

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

Water Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
LRC-2008-560 Wetland 3	Isolated (interstate or intrastate) waters, including isolated wetlands	-	7810.43208
LRC-2008-560 Wetland 4	Isolated (interstate or intrastate) waters, including isolated wetlands	-	6191.68968
LRC-2008-560 Wetland 5	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1497.33672
LRC-2008-560 Wetland 6	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1740.14808
LRC-2008-560 Wetland 7	Isolated (interstate or intrastate) waters, including isolated wetlands	-	2266.23936
LRC-2008-560 Wetland 8	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1578.27384
LRC-2008-560 Wetland 9	Isolated (interstate or intrastate) waters, including isolated wetlands	-	4370.60448
LRC-2008-560 Wetland A	Isolated (interstate or intrastate) waters, including isolated wetlands	-	3358.89048
LRC-2008-560 Wetland B	Isolated (interstate or intrastate) waters, including isolated wetlands	-	6839.18664
LRC-2008-560 Wetland C	Isolated (interstate or intrastate) waters, including isolated wetlands	-	687.96552
LRC-2008-560 Wetland D	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1092.65112
LRC-2008-560 Wetland E	Isolated (interstate or intrastate) waters, including isolated wetlands	-	5706.06696
<b>Total:</b>		<b>0</b>	<b>43139.48496</b>

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

**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):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	McHenry ADID map	-
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Overall Wetland Boundary	Surveyed wetland boundaries
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	USGS Quad Map	-
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	NRCS Soil Map	-

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**

Not Applicable.

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

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

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

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

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

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

<sup>7</sup>-Ibid.

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

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

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

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

JD Status: DRAFT

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 09-Oct-2009

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, LRC-2009-00575-JD1

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

**State :** IL - Illinois  
**County/parish/borough:** Lake  
**City:**  
**Lat:** 42.42675  
**Long:** -87.89981  
**Universal Transverse Mercator** Folder UTM List  
*UTM list determined by folder location*  
 • NAD83 / UTM zone 38S  
Waters UTM List  
*UTM list determined by waters location*  
 • NAD83 / UTM zone 38S

**Name of nearest waterbody:**

**Name of nearest Traditional Navigable Water (TNW):**

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

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

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

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

Office Determination Date: 02-Nov-2009

Field Determination Date(s):

**SECTION II: SUMMARY OF FINDINGS**

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

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

Waters subject to the ebb and flow of the tide.

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

**Explain:**

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

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

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

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

Water Name	Water Type(s) Present
Wetland W-1	Isolated (interstate or intrastate) waters, including isolated wetlands

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

**Area:** (m<sup>2</sup>)

Linear: (m)

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

based on:   
OHWM Elevation: (if known)

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

**Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:**  
The subject 0.05 acre depressional spot in the ComEd right of way has no surface water connection to any flowing water of the U.S, is near a watershed break; and therefore 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:<sup>5</sup>**

**Tributary Stream Order, if known:**

Not Applicable.

**(b) General Tributary Characteristics:**

**Tributary is:**  
Not Applicable.

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

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

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

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

**Surface Flow is:**  
Not Applicable.

**Subsurface Flow:**  
Not Applicable.

**Tributary has:**  
Not Applicable.

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

**High Tide Line indicated by:**  
Not Applicable.

**Mean High Water Mark indicated by:**  
Not Applicable.

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

**(iv) Biological Characteristics. Channel supports:**  
Not Applicable.

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

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

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

**Flow is:**  
Not Applicable.

**Surface flow is:**  
Not Applicable.

**Subsurface flow:**  
Not Applicable.

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

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

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

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

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

All wetlands being considered in the cumulative analysis:

Not Applicable.

Summarize overall biological, chemical and physical functions being performed:

Not Applicable.

**C. SIGNIFICANT NEXUS DETERMINATION**

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

Significant Nexus: Not Applicable

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

1. TNWs and Adjacent Wetlands:

Not Applicable.

2. RPWs that flow directly or indirectly into TNWs:

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

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

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

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

Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

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

Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

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

Not Applicable.

Provide estimates for jurisdictional wetlands in the review area:

Not Applicable.

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

Not Applicable.

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

Waters Name	Interstate\Foreign Travelers	Fish/Shellfish Commerce	Industrial Commerce	Interstate Isolated	Explain	Other Factors	Explain
Wetland W-1	-	-	-	-	-	-	-

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

Water Name	Adjacent To TNW Rationale	TNW Rationale
Wetland W-1	-	-

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

Water Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
Wetland W-1	Isolated (interstate or intrastate) waters, including isolated wetlands	-	202.3428
<b>Total:</b>		<b>0</b>	<b>202.3428</b>

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

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

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

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

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

Other (Explain):

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

Water Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
Wetland W-1	Isolated (interstate or intrastate) waters, including isolated wetlands	-	202.3428
<b>Total:</b>		<b>0</b>	<b>202.3428</b>

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

**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):

Data Reviewed	Source Label	Source Description
--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	-	-
--U.S. Geological Survey Hydrologic Atlas	-	-
----USGS 8 and 12 digit HUC maps	-	-
--U.S. Geological Survey map(s).	-	-
--USDA Natural Resources Conservation Service Soil Survey.	-	-
--National wetlands inventory map(s).	-	-
--FEMA/FIRM maps	-	-
--Photographs	-	-
----Aerial	-	-
--Applicable/supporting case law	-	-
--Other information	-	-

**B. ADDITIONAL COMMENTS TO SUPPORT JD:****Description**

The 0.05 acre wetland is a small depressional area within the ComEd ROW, and has no drainage features existing.

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