

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): 10-Jul-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00121-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
County/parish/borough: Will
City: Joliet
Lat: 41.4728478842162
Long: -88.12807605731969
Universal Transverse Mercator: []
Name of nearest waterbody: Des Plaines River
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: 11-Jul-2008
Field Determination Date(s): 24-Jun-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.

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: The Des Plaines River is navigable in-fact below the Hoffman Dam in Riverside, Illinois

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:¹

Water Name	Water Type(s) Present
Wetland 15	Wetlands adjacent to TNWs

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:³

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

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW

Not Applicable.

2. Wetland Adjacent to TNW

Wetland Name	Summarize rationale supporting conclusion that wetland is "adjacent":
Wetland 15	Wetland is separated by the navigable in-fact waterway by a railroad berm, but drains under the railroad berm via a pipe

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:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m ²)
Wetland 15	Wetlands adjacent to TNWs	-	1497.33672
Total:		0	1497.33672

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
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:
Not Applicable.

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

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD

(listed items shall be included in case file and, where checked and requested, appropriately reference below):

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	-	-
--USDA Natural Resources Conservation Service Soil Survey.	-	-
--National wetlands inventory map(s).	-	-
--Photographs	-	-
---Aerial	-	-
--Applicable/supporting case law	-	-
--Other information	Wetland Delineation	March 12, 2008 wetland delineation report prepared by CBBEL.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description
Subject wetland is adjacent to the TNW, separated by RR berm.

- 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.

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Universal Transverse Mercator: []
Name of nearest waterbody: Des Plaines River
Name of nearest Traditional Navigable Water (TNW): Des Plaines River
Name of watershed or Hydrologic Unit Code (HUC): 07120004

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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:¹

Water Name	Water Type(s) Present
Waters 1	Non-RPWs that flow directly or indirectly into TNWs
Waters 10	Non-RPWs that flow directly or indirectly into TNWs
Waters 11	Non-RPWs that flow directly or indirectly into TNWs
Waters 12	Non-RPWs that flow directly or indirectly into TNWs
Waters 2	Non-RPWs that flow directly or indirectly into TNWs
Waters 3	Non-RPWs that flow directly or indirectly into TNWs
Waters 4	Non-RPWs that flow directly or indirectly into TNWs
Waters 5	Non-RPWs that flow directly or indirectly into TNWs
Waters 6	Non-RPWs that flow directly or indirectly into TNWs
Waters 7	Non-RPWs that flow directly or indirectly into TNWs
Waters 8	Non-RPWs that flow directly or indirectly into TNWs
Waters 9	Non-RPWs that flow directly or indirectly into TNWs
Wetland 11	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
Wetland 7	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs

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:³

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

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW

Not Applicable.

2. Wetland Adjacent to TNW

Not Applicable.

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

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

(i) General Area Conditions:

Watershed size: 934048 acres

Drainage area: 836673 acres

Average annual rainfall: 36.83 inches

Average annual snowfall: 36.83 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 1 (or less) river miles from TNW.

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

Project Waters are 1 (or less) 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:⁵

Waters flow directly into the TNW down a large sloping hillside.

Tributary Stream Order, if known:

Order	Tributary Name
1	Waters 1
1	Waters 10
1	Waters 11
1	Waters 12
1	Waters 2
1	Waters 9
1	Waters 4
1	Waters 5
1	Waters 6
1	Waters 7
1	Waters 8
1	Waters 3

(b) General Tributary Characteristics:

Tributary is:

Tributary Name	Natural	Artificial	Explain	Manipulated	Explain
Waters 1	X	-	-	-	-
Waters 10	X	-	-	-	-
Waters 11	X	-	-	-	-
Waters 12	X	-	-	-	-
Waters 2	X	-	-	-	-
Waters 3	X	-	-	-	-
Waters 4	X	-	-	-	-
Waters 5	X	-	-	-	-
Waters 6	X	-	-	-	-
Waters 7	X	-	-	-	-

Waters 8	X	-	-	-	-
Waters 9	X	-	-	-	-

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

Tributary Name	Width (ft)	Depth (ft)	Side Slopes
Waters 1	5	1	3:1
Waters 10	5	1	3:1
Waters 11	5	1	3:1
Waters 12	5	1	3:1
Waters 2	5	1	3:1
Waters 3	5	1	3:1
Waters 4	5	1	3:1
Waters 5	5	1	3:1
Waters 6	5	1	3:1
Waters 7	5	1	3:1
Waters 8	5	1	3:1
Waters 9	5	1	3:1

Primary tributary substrate composition:

Tributary Name	Silt	Sands	Concrete	Cobble	Gravel	Muck	Bedrock	Vegetation	C
Waters 1	X	X	-	-	X	-	-	-	
Waters 10	X	X	-	-	X	-	-	-	
Waters 11	X	X	-	-	X	-	-	-	
Waters 12	X	X	-	-	X	-	-	-	
Waters 2	X	X	-	-	X	-	-	-	
Waters 3	X	X	-	-	X	-	-	-	
Waters 4	X	X	-	-	X	-	-	-	
Waters 5	X	X	-	-	X	-	-	-	
Waters 6	X	X	-	-	X	-	-	-	
Waters 7	X	X	-	-	X	-	-	-	
Waters 8	X	X	-	-	X	-	-	-	
Waters 9	X	X	-	-	X	-	-	-	

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

Tributary Name	Condition\Stability	Run\Rifle\Pool Complexes	Geometry	Gradient
Waters 1	Steep channel between hillsides so stable, steeping at top and flattening out as it approaches the TNW.	Absent	Relatively straight	5
Waters 10	Steep channel between hillsides so stable, steeping at top and flattening out as it approaches the TNW.	Absent	Relatively straight	5
Waters 11	Steep channel between hillsides so stable, steeping at top and flattening out as it approaches the TNW.	Absent	Relatively straight	5
Waters 12	Steep channel between hillsides so stable, steeping at top and flattening out as it approaches the TNW.	Absent	Relatively straight	5
Waters 2	Steep channel between hillsides so stable, steeping at top and flattening out as it approaches the TNW.	Absent	Relatively straight	5
Waters 3	Steep channel between hillsides so stable, steeping at top and flattening out as it approaches the TNW.	Absent	Relatively straight	5
	Steep channel between hillsides so stable, steeping at top and		Relatively	

Waters 4	flattening out as it approaches the TNW.	Absent	straight	5
Waters 5	Steep channel between hillsides so stable, steeping at top and flattening out as it approaches the TNW.	Absent	Relatively straight	5
Waters 6	Steep channel between hillsides so stable, steeping at top and flattening out as it approaches the TNW.	Absent	Relatively straight	5
Waters 7	Steep channel between hillsides so stable, steeping at top and flattening out as it approaches the TNW.	Absent	-	-
Waters 8	Steep channel between hillsides so stable, steeping at top and flattening out as it approaches the TNW.	Absent	Relatively straight	5
Waters 9	Steep channel between hillsides so stable, steeping at top and flattening out as it approaches the TNW.	Absent	Relatively straight	5

(c) Flow:

Tributary Name	Provides for	Events Per Year	Flow Regime	Duration & V
Waters 1	Seasonal flow	11-20	Seasonal, some flow from seepage, and flash flows in storm events.	-
Waters 10	Seasonal flow	11-20	Steep channel between hillsides so stable, steeping at top and flattening out as it approaches the TNW.	-
Waters 11	Seasonal flow	11-20	Seasonal, some flow from seepage; and flash flows in storm events.	-
Waters 12	Seasonal flow	11-20	Seasonal, some flow from seepage; and flash flows in storm events.	-
Waters 2	Seasonal flow	11-20	Seasonal, some flow from seepage, and flash flows in storm events.	-
Waters 3	Seasonal flow	11-20	Seasonal, some flow from seepage; and flash flows in storm events.	-
Waters 4	Seasonal flow	11-20	Seasonal, some flows from seepage; and flash flows in storm events.	-
Waters 5	Seasonal flow	11-20	Seasonal, some flow from seepage; and flash flows in storm events.	-
Waters 6	Seasonal flow	11-20	Seasonal, some flow from seepage; and flash flows in storm events.	-
Waters 7	-	-	-	-
Waters 8	Seasonal flow	11-20	Steep channel between hillsides so stable, steeping at top and flattening out as it approaches the TNW.	-
Waters 9	Seasonal flow	11-20	Seasonal, some flow from seepage; and flash flows in storm events.	-

Surface Flow is:

Tributary Name	Surface Flow	Characteristics
Waters 1	Discrete and confined	Steep sided channels between hillsides.
Waters 10	Discrete and confined	Steep channel between hillsides.
Waters 11	Discrete and confined	Steep channel between hillsides.
Waters 12	Discrete and confined	Steep channel between hillsides.
Waters 2	Discrete and confined	Steep channel between hillsides.
Waters 3	Discrete and confined	Steep channel between hillsides.
Waters 4	Discrete and confined	Steep channel between hillsides.
Waters 5	Discrete and confined	Steep channel between hillsides.
Waters 6	Discrete and confined	Steep channel between hillsides.
Waters 7	Discrete and confined	Steep channel between hillsides.
Waters 8	Discrete and confined	Steep channel between hillsides.

Waters 9	Discrete and confined	Steep channel between hillsides.
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Subsurface Flow:

Tributary Name	Subsurface Flow	Explain Findings	Dye (or other) T
Waters 1	Yes	Water observed seeping out lower down the channel.	-
Waters 10	Yes	Seepage further downslope.	-
Waters 11	Yes	Seepage further downslope.	-
Waters 12	Yes	Seepage further downslope.	-
Waters 2	Yes	Some seepage further downslope.	-
Waters 3	Yes	Seepage further down channel.	-
Waters 4	Yes	Seepage further downslope.	-
Waters 5	Yes	Seepage further downslope.	-
Waters 6	Yes	Seepage further downslope.	-
Waters 7	Yes	Seepage further downslope.	-
Waters 8	Yes	Seepage further downslope.	-
Waters 9	Yes	Seepage further downstream.	-

Tributary has:

Tributary Name	Bed & Banks	OHWM	Discontinuous OHWM ⁷	Explain
Waters 1	X	X	-	-
Waters 10	X	X	-	-
Waters 11	X	X	-	-
Waters 12	X	X	-	-
Waters 2	X	X	-	-
Waters 3	X	X	-	-
Waters 4	X	X	-	-
Waters 5	X	X	-	-
Waters 6	X	X	-	-
Waters 7	X	X	-	-
Waters 8	X	X	-	-
Waters 9	X	X	-	-

Tributaries with OHWM⁶ - (as indicated above)

Tributary Name	OHWM	Clear	Litter	Changes in Soil	Destruction Vegetation	Shelving	Wreck Line	Matted/Absent Vegetation	Sediment Sorting	Leaf Litter	Scour	Sediment Deposit
Waters 1	X	-	-	-	-	X	-	-	-	-	-	-
Waters 10	X	-	-	-	-	X	-	-	-	-	-	-
Waters 11	X	-	-	-	-	X	-	-	-	-	-	-
Waters 12	X	-	-	-	-	X	-	-	-	-	-	-
Waters 2	X	-	-	-	-	X	-	-	-	-	-	-
Waters 3	X	-	-	-	-	X	-	-	-	-	-	-
Waters 4	X	-	-	-	-	X	-	-	-	-	-	-
Waters 5	X	-	-	-	-	X	-	-	-	-	-	-
Waters 6	X	-	-	-	-	X	-	-	-	-	-	-
Waters 7	X	-	-	-	-	X	-	-	-	-	-	-
Waters 8	X	-	-	-	-	X	-	-	-	-	-	-

Waters 9	X	-	-	-	-	X	-	-	-	-	-	-
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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.).

Tributary Name	Explain	Identify specific pollutants, if known
Waters 1	Water is clear.	-
Waters 10	Water is clear.	-
Waters 11	Water is clear.	-
Waters 12	Water is clear.	-
Waters 2	Water is clear.	-
Waters 3	Water is clear.	-
Waters 4	Water is clear.	-
Waters 5	Water is clear.	-
Waters 6	Water is clear.	-
Waters 7	Water is clear.	-
Waters 8	Water is clear.	-
Waters 9	Water is clear.	-

(iv) Biological Characteristics. Channel supports:

Tributary Name	Riparian Corridor	Characteristics	Wetland Fringe	Characteristics	Ha
Waters 1	X	1-5 feet wide corridor.	-	-	
Waters 10	X	1-5 foot riparian corridor.	-	-	
Waters 11	X	1-5 foot riparian corridor.	-	-	
Waters 12	X	1-5 foot riparian corridor.	-	-	
Waters 2	X	1-5 wide riparian area.	-	-	
Waters 3	X	1-5 foot riparian corridor.	-	-	
Waters 4	X	1-5 riparian corridor.	-	-	
Waters 5	X	1-5 foot riparian corridor.	-	-	
Waters 6	X	1-5 foot riparian corridor.	-	-	
Waters 7	X	1-5 foot riparian corridor.	-	-	
Waters 8	X	1-5 foot riparian corridor.	-	-	
Waters 9	X	1-5 foot riparian corridor.	-	-	

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland Name	Size (Acres)	Wetland Type	Wetland Quality	Cross or Serve as State Boundaries. Exp
Wetland 11	.35	Forested shrub/scrub with emergents.	Medium	-

Wetland 7	.06	Emergent	Low	-
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(b) General Flow Relationship with Non-TNW:

Flow is:

Wetland Name	Flow	Explain
Wetland 11	Intermittent flow.	-
Wetland 7	Intermittent flow.	-

Surface flow is:

Wetland Name	Flow	Characteristics
Wetland 11	Overland sheetflow	Water comes in from surrounding landscape and accumulates in this shallow natural drainage feature.
Wetland 7	Discrete and confined	Headwater wetland that is constricted between surrounding sloped hillsides, but relatively flat.

Subsurface flow:

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
Wetland 11	Unknown	-	-
Wetland 7	Unknown	-	-

(c) Wetland Adjacency Determination with Non-TNW:

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated Berm/Barri
Wetland 11	Yes	-	-	-
Wetland 7	Yes	-	-	-

(d) Proximity (Relationship) to TNW:

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
Wetland 11	2-5	1-2	Wetland to navigable waters	100 - 500-year
Wetland 7	1 (or less)	1 (or less)	Wetland to navigable waters	500-year or greater

(ii) Chemical Characteristics:

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

Wetland Name	Explain	Identify specific pollutants, if known
Wetland 11	-	-
Wetland 7	-	-

(iii) Biological Characteristics. Wetland supports:

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
Wetland 11	-	-	X	Trees, shrubs and herbaceous vegetation - 100%.
Wetland 7	-	-	X	Emergent - 90%

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 to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of its significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to, 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 wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not a significant nexus.

Findings for: Waters 1, Waters 10, Waters 11, Waters 12, Waters 2, Waters 3, Waters 4, Waters 5, Waters 6, Waters 7, Waters 8, Waters 9
 The wetlands are adjacent and contiguous to the similar Waters that flow down a slope and consolidate and then flow through pipes into and into the TNW. This surface water connection demonstrates the ability of these tributaries to carry pollutants, flood waters, nutrients, and sediment into the TNW. The adjacent wetlands have the ability to reduce the amount of pollutants and floodwaters reaching the TNW. These waterways store water from groundwater and from runoff from the surrounding uplands before it flows into Des Plaines River. Wetlands and waters provide stormwater storage, habitat, sediment/toxicant retention and nutrient removal/transformation. The decrease of sedimentation, pollutant retention, and habitat provided by the subject wetlands provides a positive effect to the traditional navigable waters. These wetlands significantly affect the biological integrity of the Des Plaines River. Stormwater storage provided by the subject wetlands affect the frequency and extent of flood peaks in the Des Plaines River, and in turn impacting navigation and downstream bank erosion and sedimentation. The sediment retention provided by the wetlands and waters have a direct positive effect on the Des Plaines River in regards to navigation and aquaculture. Wetlands adapted to thrive in sediment-choked environments. These factors contribute to the finding of a significant nexus between the on-site wetlands, contiguous wetlands, and the TNW.

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

1. TNWs and Adjacent Wetlands:
 Not Applicable.

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

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

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

Provide estimates for jurisdictional waters in the review area:

Tributary Name	Type	Size (Linear) (m)	Size (Area) (ac)
Waters 1	Non-RPWs that flow directly or indirectly into TNWs	-	242.81136
Waters 10	Non-RPWs that flow directly or indirectly into TNWs	-	364.21704
Waters 11	Non-RPWs that flow directly or indirectly into TNWs	-	161.87424
Waters 12	Non-RPWs that flow directly or indirectly into TNWs	-	4613.41584
Waters 2	Non-RPWs that flow directly or indirectly into TNWs	-	121.40568
Waters 3	Non-RPWs that flow directly or indirectly into TNWs	-	121.40568
Waters 4	Non-RPWs that flow directly or indirectly into TNWs	-	647.49696
Waters 5	Non-RPWs that flow directly or indirectly into TNWs	-	283.27992
Waters 6	Non-RPWs that flow directly or indirectly into TNWs	-	121.40568

Waters 7	Non-RPWs that flow directly or indirectly into TNWs	-	80.93712
Waters 8	Non-RPWs that flow directly or indirectly into TNWs	-	809.3712
Waters 9	Non-RPWs that flow directly or indirectly into TNWs	-	485.62272
Total:		0	8053.24344

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:

Wetland Name	Type	Size (Linear) (m)	Size (Area)
Wetland 11	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs	-	1416.3996
Wetland 7	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs	-	242.81136
Total:		0	1659.2109

7. Impoundments of jurisdictional waters:⁹

Not Applicable.

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

Not Applicable.

Identify water body and summarize rationale supporting determination:

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

F. NON-JURISDICTIONAL WATERS. INCLUDING WETLANDS

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

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

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

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

Other (Explain):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (ie., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:
Not Applicable.

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

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	-	-
--U.S. Geological Survey map(s).	-	-
--USDA Natural Resources Conservation Service Soil Survey.	-	-
--National wetlands inventory map(s).	-	-
--Photographs	-	-
----Aerial	-	-
----Other	-	-
--Applicable/supporting case law	-	-
--Other information	Weland Delineation	March 12, 2008 wetland delineation report pre by CBBEL.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description
The subject waters flow directly into the TNW down a steep slope; other than wetland 11 which is directly abutting a seasonal tributary

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

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

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

⁷-Ibid.

⁸-See Footnote #3.

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

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

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

SECTION I: BACKGROUND INFORMATION

- A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 8-12-2008**
B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, Fox River, LRC-2008-210
C. PROJECT LOCATION AND BACKGROUND INFORMATION: The Fox River within the Chicago District, USACE
State: Illinois County: Lake, McHenry, Kane City: Multiple
Center coordinates of site (lat/long in degree decimal format): Lat. 42.0483048 ° N, Long. 88.2915890 ° W.
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Fox River and Chain of Lakes**
Name of watershed or Hydrologic Unit Code (HUC): ~~07040006~~, ~~07040006~~
 Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
D. REVIEW PERFORMED FOR SITE EVALUATION: Office (Desk) Determination. Date: 10/19/2007

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: Defined in People of State of Ill. ex rel. Scott v. Hoffman, No. P-CIV-76-45, slip op. at 7 (S.D.Ill. Jan. 20, 1979).

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:** TNWs, including territorial seas
b. Identify (estimate) size of waters of the U.S. in the review area:
Non-wetland waters: 387544 linear feet: width (ft) and/or 10800 acres.
c. Limits (boundaries) of jurisdiction based on: ~~Established by OHWM~~
Elevation of established OHWM (if known): .

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: **Fox River and the Chain of Lakes.**

Summarize rationale supporting determination: The Fox River is defined as a navigable waterway in People of State of Ill. ex rel. Scott v. Hoffman, No. P-CIV-76-45, slip op. at 7 (S.D.Ill. Jan. 20, 1979).

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: 387544 linear feet width (ft), Or, 10800 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: See Below.
 Corps navigable waters' study:
 U.S. Geological Survey Hydrologic Atlas:
 USGS 8 and 12 digit HUC maps.
 U.S. Geological Survey map(s). Cite scale & quad name: Multiple 7.5" quads.
 FEMA/FIRM maps:
 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
 Photographs: Aerial (Name & Date): , or Other (Name & Date):
 Previous determination(s). File no. and date of response letter: multiple.
 Applicable/supporting case law: People of State of Ill. ex rel. Scott v. Hoffman, No. P-CIV-76-45, (S.D.Ill. Jan. 20, 1979)
 Other information (please specify):

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

SECTION I: BACKGROUND INFORMATION

- A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 8/18/2008**
B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, **Fox River, LRC-2008-427, Grand Army Reserve Aurora**
C. PROJECT LOCATION AND BACKGROUND INFORMATION: The Fox River within the Chicago District, USACE
State: Illinois County: **Lake, McHenry, Kane** City: Multiple
Center coordinates of site (lat/long in degree decimal format): Lat. 42.0483048 ° N, Long. 88.2915890 ° W.
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Fox River and Chain of Lakes**
Name of watershed or Hydrologic Unit Code (HUC): ~~Upper Fox (07120006), Lower Fox (07120007)~~
 Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
D. REVIEW PERFORMED FOR SITE EVALUATION: Office (Desk) Determination. Date: 10/19/2007

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There ~~are~~ **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.

- Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: Defined in People of State of Ill. ex rel. Scott v. Hoffman, No. P-CIV-76-45, slip op. at 7 (S.D.Ill. Jan. 20, 1979).

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There ~~are~~ **are** "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:** TNWs, including territorial seas
b. Identify (estimate) size of waters of the U.S. in the review area:
Non-wetland waters: 387544 linear feet: width (ft) and/or 10800 acres.
c. Limits (boundaries) of jurisdiction based on: ~~Established by OHWM~~
Elevation of established OHWM (if known): .

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: **Fox River and the Chain of Lakes.**

Summarize rationale supporting determination: The Fox River is defined as a navigable waterway in People of State of Ill. ex rel. Scott v. Hoffman, No. P-CIV-76-45, slip op. at 7 (S.D.Ill. Jan. 20, 1979).

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: 387544 linear feet width (ft), Or, 10800 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: See Below.
 Corps navigable waters' study:
 U.S. Geological Survey Hydrologic Atlas:
 USGS 8 and 12 digit HUC maps.
 U.S. Geological Survey map(s). Cite scale & quad name: Multiple 7.5" quads.
 FEMA/FIRM maps:
 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
 Photographs: Aerial (Name & Date): , or Other (Name & Date):
 Previous determination(s). File no. and date of response letter: multiple.
 Applicable/supporting case law: People of State of Ill. ex rel. Scott v. Hoffman, No. P-CIV-76-45, (S.D.Ill. Jan. 20, 1979)
 Other information (please specify):

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

SECTION I: BACKGROUND INFORMATION

- A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 8-18-2008**
B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, Fox River, LRC-2007-571, Fox River East Bank Development
C. PROJECT LOCATION AND BACKGROUND INFORMATION: The Fox River within the Chicago District, USACE
State: Illinois County: **Lake, McHenry, Kane** City: Multiple
Center coordinates of site (lat/long in degree decimal format): Lat. 42.0483048 ° N, Long. 88.2915890 ° W.
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Fox River and Chain of Lakes**
Name of watershed or Hydrologic Unit Code (HUC): **Upper Fox (07420006), Lower Fox (07420007)**
 Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
D. REVIEW PERFORMED FOR SITE EVALUATION: Office (Desk) Determination. Date: 10/19/2007

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.

- Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: Defined in People of State of Ill. ex rel. Scott v. Hoffman, No. P-CIV-76-45, slip op. at 7 (S.D.Ill. Jan. 20, 1979).

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.

1. Waters of the U.S.

- a. Indicate presence of waters of U.S. in review area:** TNWs, including territorial seas
b. Identify (estimate) size of waters of the U.S. in the review area:
Non-wetland waters: 387544 linear feet: width (ft) and/or 10800 acres.
c. Limits (boundaries) of jurisdiction based on: **Established by CHAWA**
Elevation of established OHWM (if known):

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: **Fox River and the Chain of Lakes.**

Summarize rationale supporting determination: The Fox River is defined as a navigable waterway in People of State of Ill. ex rel. Scott v. Hoffman, No. P-CIV-76-45, slip op. at 7 (S.D.Ill. Jan. 20, 1979).

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: 387544 linear feet width (ft), Or, 10800 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: See Below.
 Corps navigable waters' study:
 U.S. Geological Survey Hydrologic Atlas:
 USGS 8 and 12 digit HUC maps.
 U.S. Geological Survey map(s). Cite scale & quad name: Multiple 7.5" quads.
 FEMA/FIRM maps:
 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
 Photographs: Aerial (Name & Date): 1939, 2001, 2002, 2004, 2005, or Other (Name & Date):
 Previous determination(s). File no. and date of response letter: multiple.
 Applicable/supporting case law: People of State of Ill. ex rel. Scott v. Hoffman, No. P-CIV-76-45, (S.D.Ill. Jan. 20, 1979)
 Other information (please specify):

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): 21-Aug-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00458-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
 County/parish/borough: Will
 City: Manhattan
 Lat: 41.45597597810094
 Long: -87.97
 Universal Transverse Mercator: []
 Name of nearest waterbody: Jackson 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: 21-Aug-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:¹

Water Name	Water Type(s) Present
Jackson Creek	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs

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:³

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

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW

Not Applicable.

2. Wetland Adjacent to TNW

Not Applicable.

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

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

(i) General Area Conditions:

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

(ii) Physical Characteristics

(a) Relationship with TNW:

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

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

Project waters cross or serve as state boundaries.
 Explain:
 Identify flow route to TNW:⁵

Tributary Stream Order, if known:

Order	Tributary Name
1	Jackson Creek

(b) General Tributary Characteristics:

Tributary Name	Natural	Artificial	Explain	Manipulated	Explain
Jackson Creek	-	-	-	X	Partially straightened for agricultural purposes. Plowed to the edge with eroding and sloughing banks.

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

Tributary Name	Width (ft)	Depth (ft)	Side Slopes
Jackson Creek	20	2	Vertical (1:1 or less)

Primary tributary substrate composition:

Tributary Name	Silt	Sands	Concrete	Cooble	Gravel	Muck	Bedrock	Vegetation	Other
Jackson Creek	X	X	-	-	X	X	-	-	-

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

Tributary Name	Condition\Stability	Run\Riffle\Pool Complexes	Geometry	Gradient (%)
Jackson Creek	Tributary has some areas of wetland fringe, but most banks vertical and sloughing, and water is cloudy.	Absent	Relatively straight	1

(c) Flow:

Tributary Name	Provides for	Events Per Year	Flow Regime	Duration & Volume
Jackson Creek	Perennial flow	20 (or greater)	Creek flows year-round.	-

Surface Flow is:

Tributary Name	Surface Flow	Characteristics
Jackson Creek	Discrete and confined	Most of channel with near vertical banks 3 feet high, but some wetland vegetation and shelving in interior curve of creek.

Subsurface Flow:

Tributary Name	Subsurface Flow	Explain Findings	Dye (or other) Test
Jackson Creek	Unknown	-	-

Tributary has:

Tributary Name	Bed & Banks	OHWM	Discontinuous OHWM ⁷	Explain
Jackson Creek	X	X	-	-

Tributaries with OHWM⁶ - (as indicated above)

Tributary Name	OHWM	Clear	Litter	Changes in Soil	Destruction Vegetation	Shelving	Wrack Line	Matted\Absent Vegetation	Sediment Sorting	Leaf Litter	Scour	Sediment Deposition	Flow Events	Water Staining	Changes Plant
Jackson Creek	X	X	-	X	X	X	-	X	-	-	X	-	-	-	X

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

Tributary Name	Explain	Identify specific pollutants if known
Jackson Creek	Water is cloudy.	Sedimentation and farm pesticides and fertilizers; road salt.

(iv) Biological Characteristics. Channel supports:

Tributary Name	Riparian Corridor	Characteristics	Wetland Fringe	Habitat
Jackson Creek	X	Varies throughout length of creek.	X	Mostly reed canary grass.

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:

Wetland Name	Flow	Explain
Jackson Creek	PERENNIAL	Creek flows year-round.

Provide estimates for jurisdictional waters in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m ²)
Jackson Creek	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs	-	3035.142
Total:		0	3035.142

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
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:
Not Applicable.

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

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD

(listed items shall be included in case file and, where checked and requested, appropriately reference below):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Delineation Report	June 2008 Wetland Delineation Report prepared by JFNew.
--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).	-	-
--Photographs	-	-

----Aerial	-
------------	---

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description
Jackson Creek, with it's associated wetlands along the bank for a total of 0.75 acres, flows into the Des Plaines River, a navigable in-fact waterway below the Hoffman Dam in Riverside, Illinois.

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

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 31-Jul-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2007-00615~JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
County/parish/borough: McHenry
City: Crystal Lake
Lat: 42.24931255258405
Long: -88.3498203193424
Universal Transverse Mercator: []
Name of nearest waterbody: Crystal Lake
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: 31-Jul-2008
 Field Determination Date(s): 24-Jul-2008
30-Jul-2008

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

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

Waters subject to the ebb and flow of the tide.

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

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

1. Waters of the U.S.

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

Water Name	Water Type(s) Present
LR-2007-615 Wetland A	Wetlands 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: (m²)

Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on:

OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:³

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

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW

Not Applicable.

2. Wetland Adjacent to TNW
Not Applicable.

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

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

(i) General Area Conditions:

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

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

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

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

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

Wetland Name	Size (Acres)	Wetland Type	Wetland Quality	Cross or Serve as State Boundaries. Explain
LRC-2007-615 Wetland A	.08	Dominant vegetation includes: Narrow-leaved Cattails, Reed Canary Grass, and Field Thistle	Not a HQAR	-

(b) General Flow Relationship with Non-TNW:

Flow is:

Wetland Name	Flow	Explain
LRC-2007-615 Wetland A	Intermittent flow.	-

Surface flow is:

Wetland Name	Flow	Characteristics
LRC-2007-615 Wetland A	Discrete	Wetland is in a roadside ditch. The flow through the wetland is likely higher during rain events.

Subsurface flow:

Wetland Name	Subsurface Flow	Explain Findings	Dyc (or other) Test
LRC-2007-615 Wetland A	-	-	-

(c) Wetland Adjacency Determination with Non-TNW:

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
LRC-2007-615 Wetland A	No	X	-	-

(d) Proximity (Relationship) to TNW:

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
LRC-2007-615 Wetland A	5-10	5-10	Wetland to navigable waters	-

(ii) Chemical Characteristics:

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

Wetland Name	Explain	Identify specific pollutants, if known
LRC-2007-615 Wetland A	-	-

(iii) Biological Characteristics. Wetland supports:

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
LRC-2007-615 Wetland A	-	-	X	Greater than 50% wetland vegetation

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.

Wetland Name	Flow	Explain
LRC-2007-615 Wetland A	PERENNIAL	Wetland is hydrologically connected to a High Functional Value wetland complex on the south side of IL-Rt. 176 through a culvert. This wetland complex drains directly into Crystal Lake, which eventually drains to the Fox River through Crystal Creek.

Provide acreage estimates for jurisdictional wetlands in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m ²)
LRC-2007-615 Wetland A	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	323.74848
Total:		0	323.74848

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

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

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

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

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

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

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

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

F. NON-JURISDICTIONAL WATERS. INCLUDING WETLANDS

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

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

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

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

Other (Explain):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (ie., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:
Not Applicable.

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

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	1 Foot Contour Map	Shows culvert under IL-Rt. 176 showing hydrologic connection
-Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Wetland Delineation Map	-

--U.S. Geological Survey Hydrologic Atlas	Crystal Lake	Shows Wetland connection to Crystal Lake and connection of lake to Crystal Creek, tributary to Fox River.
--State/Local wetland inventory map(s):	McHenry County ADID Map	Site wetland is connected via culvert to High Functional Value wetland
--Photographs	-	-
---Other	Culvert under Rt. 176	-
---Other	Drainage to Crystal Lake	-
---Other	Culvert under North Shore Drive	-

B. ADDITIONAL COMMENTS TO SUPPORT JD:
Not Applicable.

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

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 29-Nov-2007

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00071-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
 County/parish/borough: McHenry
 City:
 Lat: 42.193975700652274
 Long: -88.64
 Universal Transverse Mercator: []
 Name of nearest waterbody: Kishwaukee River
 Name of nearest Traditional Navigable Water (TNW): Rock River
 Name of watershed or Hydrologic Unit Code (HUC):

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

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date:

✓
 29-Nov-2007

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:¹

Water Name	Water Type(s) Present
Coon Creek	Wetlands 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: (m²)

Linear: 1000 (m)

c. Limits (boundaries) of jurisdiction:

based on: 1987 Delineation Manual.

OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:³

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

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

Not Applicable.

2. Wetland Adjacent to TNW

Not Applicable.

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

Watershed size: []

Drainage area: []

Average annual rainfall: inches

Average annual snowfall: inches

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

Tributary flows directly into TNW.

Tributary flows through [] tributaries before entering TNW.

:Number of tributaries

Project waters are [] river miles from TNW.

Project waters are [] river miles from RPW.

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

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

Project waters cross or serve as state boundaries.

Explain:

Identify flow route to TNW: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:

Wetland Name	Size (Acres)	Wetland Type	Wetland Quality	Cross or Serve as State Boundaries. Explain
Coon Creek	-	Shrub scrub	low to moderate	No.

(b) General Flow Relationship with Non-TNW:

Flow is:

Wetland Name	Flow	Explain
Coon Creek	Perennial flow.	-

Surface flow is:

Wetland Name	Flow	Characteristics
Coon Creek	-	-

Subsurface flow:

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
Coon Creek	Unknown	-	-

(c) Wetland Adjacency Determination with Non-TNW:

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
Coon Creek	Yes	-	-	-

(d) Proximity (Relationship) to TNW:

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
Coon Creek	30 (or more)	30 (or more)	Wetland to navigable waters	50 - 100-year

(ii) Chemical Characteristics:

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

Wetland Name	Explain	Identify specific pollutants, if known
Coon Creek	-	unknown

(iii) Biological Characteristics. Wetland supports:

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
Coon Creek	X	up to 300' wide	-	-

Habitat for:

Wetland Name	Habitat	Federally Listed Species	Explain Findings	Spawn Area	Explain Findings	Other Environmentally Sensitive Species	Explain Findings	Aquatic/Wildlife Diversity	Explain
Coon Creek	X	-	-	-	-	-	-	X	fish, amph

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.

Wetland Name	Flow	Explain
Coon Creek	PERENNIAL	Coon Creek is shown as a perennial stream on the USGS topo map.

Provide acreage estimates for jurisdictional wetlands in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m ²)
Coon Creek	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	500	-
Total:		500	0

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

Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

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

Not Applicable.

Provide estimates for jurisdictional wetlands in the review area:

Not Applicable.

7. Impoundments of jurisdictional waters:⁹

Not Applicable.

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

Not Applicable.

Identify water body and summarize rationale supporting determination:

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

F. NON-JURISDICTIONAL WATERS. INCLUDING WETLANDS

If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland

Delineation Manual and/or appropriate Regional Supplements:

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

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

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

Other (Explain):

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

Not Applicable.

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

Not Applicable.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD

(listed items shall be included in case file and, where checked and requested, appropriately reference below):

Not Applicable.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Not Applicable.

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

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

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

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

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

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

⁷-Ibid.

⁸-See Footnote #3.

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

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

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 30-Jul-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00086-JD4

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
County/parish/borough: McHenry
City: Wonder Lake
Lat: 42.38677990622058
Long: -88.37463441842088
Universal Transverse Mercator: []

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: 30-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:¹

Water Name	Water Type(s) Present
LRC-2008-86 Nipersink Creek	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs

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:³

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

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW

Not Applicable.

2. Wetland Adjacent to TNW
Not Applicable.

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

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

(i) General Area Conditions:

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

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

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

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

Project waters cross or serve as state boundaries.
 Explain:
 Identify flow route to TNW:⁵

Tributary Stream Order, if known:

Order	Tributary Name
-	LR-2008-86 Nipersink Creek

(b) General Tributary Characteristics:

Tributary is:

Tributary Name	Natural	Artificial	Explain	Manipulated	Explain

LRC-2008-86 Nipersink Creek	-	-	-	-	-	-	-	-	-	-	-	-
-----------------------------	---	---	---	---	---	---	---	---	---	---	---	---

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

Tributary Name	Width (ft)	Depth (ft)	Side Slopes
LRC-2008-86 Nipersink Creek	-	-	-

Primary tributary substrate composition:

Tributary Name	Silt	Sands	Concrete	Cobble	Gravel	Muck	Bedrock	Vegetation	Other
LRC-2008-86 Nipersink Creek	-	-	-	-	-	-	-	-	-

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

Tributary Name	Condition\Stability	Run\Riffle\Pool Complexes	Geometry	Gradient (%)
LRC-2008-86 Nipersink Creek	-	-	-	-

(c) Flow:

Tributary Name	Provides for	Events Per Year	Flow Regime	Duration & Volume
LRC-2008-86 Nipersink Creek	Perennial flow	-	-	-

Surface Flow is:

Tributary Name	Surface Flow	Characteristics
LRC-2008-86 Nipersink Creek	-	-

Subsurface Flow:

Tributary Name	Subsurface Flow	Explain Findings	Dye (or other) Test
LRC-2008-86 Nipersink Creek	-	-	-

Tributary has:

Tributary Name	Bed & Banks	OHWM	Discontinuous OHWM ⁷	Explain
LRC-2008-86 Nipersink Creek	-	-	-	-

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.).

Tributary Name	Explain	Identify specific pollutants, if known
LRC-2008-86 Nipersink Creek	-	-

(iv) Biological Characteristics. Channel supports:

Tributary Name	Riparian Corridor	Characteristics	Wetland Fringe	Characteristics	Habitat
LRC-2008-86 Nipersink Creek	-	-	-	-	-

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:

Wetland Name	Flow	Explain
LRC-2008-86 Nipersink Creek	PERENNIAL	Nipersink Creek flows continuously.

Provide estimates for jurisdictional waters in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m ²)
LRC-2008-86 Nipersink Creek	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs	99.9999999999999999999999999999989	-
Total:		99.9999999999999999999999999999989	0

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

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:
Not Applicable.

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

SECTION IV: DATA SOURCES.

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

Data Reviewed	Source Label	Source Description
-U.S. Geological Survey map(s).	Topography map	-

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Not Applicable.

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

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 30-Jul-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00086-JD3

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
County/parish/borough: McHenry
City: Wonder Lake
Lat: 42.38677990622058
Long: -88.37463441842088
Universal Transverse Mercator: []

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: 30-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:¹

Water Name	Water Type(s) Present
LRC-2008-86 Forested Wet Meadow	Wetlands 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: (m²)

Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on:

OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:³

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

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW

Not Applicable.

2. Wetland Adjacent to TNW
Not Applicable.

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

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

(i) General Area Conditions:

Watershed size: []

Drainage area: []

Average annual rainfall: inches

Average annual snowfall: inches

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

Tributary flows directly into TNW.

Tributary flows through tributaries before entering TNW.

: Number of tributaries

Project waters are river miles from TNW.

Project waters are river miles from RPW.

Project Waters are aerial (straight) miles from TNW.

Project waters are aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

Explain:

Identify flow route to TNW.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):

(iii) Biological Characteristics. Wetland supports:

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
LRC-2008-86 Forested Wet Meadow	X	-	-	-

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.

Wetland Name	Flow	Explain
LRC-2008-86 Forested Wet Meadow	PERENNIAL	The wetlands are situated adjacent on the north and south sides of Nippersink Creek. The topography of the wetland area slopes towards the creek.

Provide acreage estimates for jurisdictional wetlands in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m ²)
LRC-2008-86 Forested Wet Meadow	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	11371.66536
Total:		0	11371.66536

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

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

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

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

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

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

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

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

F. NON-JURISDICTIONAL WATERS. INCLUDING WETLANDS

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

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

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

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

Other (Explain):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (ie., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:
Not Applicable.

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

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	Surveyed Wetland Boundaries	-
-U.S. Geological Survey Hydrologic Atlas	Richmond and Hebron Quads	-
-U.S. Geological Survey map(s).	U.S. Topographic map	Richmond and Hebron

	McHenry County Wetland Inventory	Quads
--State/Local wetland inventory map(s):	-	-
--Other information	2 Foot topography map	-

B. ADDITIONAL COMMENTS TO SUPPORT JD:
Not Applicable.

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

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): 22-Aug-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00280-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
 County/parish/borough: McHenry
 City: McHenry
 Lat: 42.321586093225164
 Long: -88.26717218874611
 Universal Transverse Mercator: []
 Name of nearest waterbody: Fox River
 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: 22-Aug-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:¹

Water Name	Water Type(s) Present
LRC-2008-280 Wetland Area B	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
LRC-2008-280 Wetland Area A	Wetlands 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: (m²)

Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on:

OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:³

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

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW

Not Applicable.

2. Wetland Adjacent to TNW
Not Applicable.

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

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

(i) General Area Conditions:

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

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

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

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

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

Wetland Name	Size (Acres)	Wetland Type	Wetland Quality	Cross or Serve as State Boundaries. Explain
LRC-2008-280 Wetland Area A	45	Wetland complex that consists of Wheeler Park Fen, wet prairie, sedge meadow, marsh, and scrub shrub plant communities	Eastern portion is a Habitat High Wetland according to the McHenry ADID	-
LRC-2008-280 Wetland Area B	15.53	Wet-mesic prairie and scrub shrub	Much of Wetland 3 is Habitate High Value according to the McHenry ADID	-

(b) General Flow Relationship with Non-TNW:

Flow is:

Wetland Name	Flow	Explain
LRC-2008-280 Wetland Area A	Intermittent flow.	-
LRC-2008-280 Wetland Area B	Intermittent flow.	-

Surface flow is:

Wetland Name	Flow	Characteristics
LRC-2008-280 Wetland Area A	Discrete and confined	Wetland flow is discrete in portions but it also links up with an area that is confined and listed as an intermittent tributary.
LRC-2008-280 Wetland Area B	Discrete and confined	Flow is confined at culvert under road but discrete throughout wetland.

Subsurface flow:

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
LRC-2008-280 Wetland Area A	Unknown	-	-
LRC-2008-280 Wetland Area B	-	-	-

(c) Wetland Adjacency Determination with Non-TNW:

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
LRC-2008-280 Wetland Area A	Yes	-	-	-

LRC-2008-280 Wetland Area B	Yes	-	-	-
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(d) Proximity (Relationship) to TNW:

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
LRC-2008-280 Wetland Area A	1 (or less)	1 (or less)	Wetland to navigable waters	-
LRC-2008-280 Wetland Area B	1-2	1-2	Wetland to navigable waters	-

(ii) Chemical Characteristics:

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

Wetland Name	Explain	Identify specific pollutants, if known
LRC-2008-280 Wetland Area A	-	-
LRC-2008-280 Wetland Area B	-	-

(iii) Biological Characteristics. Wetland supports:

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
LRC-2008-280 Wetland Area A	-	-	-	-
LRC-2008-280 Wetland Area B	-	-	-	-

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.

Wetland Name	Flow	Explain
LRC-2008-280 Wetland Area A	PERENNIAL	Western portion of Wetland 1 drains east towards a RPW. The RPW drains through wetland 2 directly in the Fox River (TNW). The eastern portion of Wetland 1 is abutting the Fox River. Flow is directed either to the RPW and through Wetland 2 or directly into the Fox River.
LRC-2008-280 Wetland Area B	PERENNIAL	Wetland 4 flows north into Wetland 3. These wetlands are directly abutting a RPW that is listed as an intermittent tributary. This RPW drains north and east into the TNW (Fox River)

Provide acreage estimates for jurisdictional wetlands in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m ²)
LRC-2008-280 Wetland Area A	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	182108.52
LRC-2008-280 Wetland Area B	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	62847.67368
Total:		0	244956.19368

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

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

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

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

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

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

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

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

F. NON-JURISDICTIONAL WATERS. INCLUDING WETLANDS

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

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

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

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

Other (Explain):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (ie., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:
 Not Applicable.

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

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	Wetland Boundary	Boundaries over aerial photo
-U.S. Geological Survey Hydrologic Atlas	Hydrologic Atlas	-
-U.S. Geological Survey map(s).	10 Foot Contour	-
-State/Local wetland inventory map(s):	McHenry ADID	-

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Not Applicable.

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

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