

**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):** 23-Nov-2010

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, LRC-2010-00775-JD1

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

**State :**

**County/parish/borough:**

**City:**

**Lat:**

**Long:**

**Universal Transverse Mercator**

Folder UTM List

*UTM list determined by folder location*

Enter LRC-2010-00775 location information to display the UTM list.

Waters UTM List

*UTM list determined by waters location*

**Name of nearest waterbody:**

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

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

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

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

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

Office Determination Date: 03-Dec-2010

Field Determination Date(s): 30-Nov-2010

**SECTION II: SUMMARY OF FINDINGS**

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

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

Waters subject to the ebb and flow of the tide.

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

Explain:

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

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

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

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

Water Name	Water Type(s) Present
Wetland 1	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:** (m<sup>2</sup>)

**Linear:** (m)

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

**based on:**

**OHWM Elevation:** (if known)

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

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

**SECTION III: CWA ANALYSIS**

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

**1. TNW**

Not Applicable.

**2. Wetland Adjacent to TNW**

Not Applicable.

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

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

**(i) General Area Conditions:**

**Watershed size:**

**Drainage area:**

**Average annual rainfall:** inches

**Average annual snowfall:** inches

**(ii) Physical Characteristics**

**(a) Relationship with TNW:**

Tributary flows directly into TNW.

Tributary flows through [ ] tributaries before entering TNW.

Number of tributaries

Project waters are river miles from TNW.

Project waters are river miles from RPW.

Project Waters are aerial (straight) miles from TNW.

Project waters are aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

Explain:

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

Tributary Stream Order, if known:

Not Applicable.

**(b) General Tributary Characteristics:**

Tributary is:

Not Applicable.

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

Not Applicable.

Primary tributary substrate composition:

Not Applicable.

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

Not Applicable.

**(c) Flow:**

Not Applicable.

Surface Flow is:

Not Applicable.

Subsurface Flow:

Not Applicable.

Tributary has:

Not Applicable.

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

High Tide Line indicated by:

Not Applicable.

Mean High Water Mark indicated by:

Not Applicable.

**(iii) Chemical Characteristics:**

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

Not Applicable.

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

Not Applicable.

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

**(i) Physical Characteristics:**

**(a) General Wetland Characteristics:**

Properties:

Wetland Name	Size (Acres)	Wetland Type	Wetland Quality	Cross or Serve as State Boundaries. Explain
Wetland 1	17.9	Emergent	Moderate	-

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

Flow is:

Wetland Name	Flow	Explain
Wetland 1	Perennial flow.	-

Surface flow is:

Wetland Name	Flow	Characteristics
Wetland 1	Overland sheetflow	Large overland sheetflow constricted at outlet to channel and pipe.

Subsurface flow:

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
Wetland 1	Yes	Some areas tiled.	-

**(c) Wetland Adjacency Determination with Non-TNW:**

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
Wetland 1	Yes	-	-	-

(d) Proximity (Relationship) to TNW:

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
Wetland 1	15-20	10-15	Wetland to navigable waters	50 - 100-year

(H) 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 1	-	Sediment, road salt runoff.

(iii) Biological Characteristics. Wetland supports:

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
Wetland 1	-	-	-	-

Habitat for:

Wetland Name	Habitat	Federally Listed Species	Explain Findings	Spawn Area	Explain Findings	Other Environmentally Sensitive Species	Explain Findings	Aquatic/Wildlife Diversity	Explain Findings
Wetland 1	X	-	-	-	-	-	-	X	Area mapped as ADID due to high functional habitat for storm water storage and filtering, etc.

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

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

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

C. SIGNIFICANT NEXUS DETERMINATION

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

Significant Nexus: Not Applicable

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

1. TNWs and Adjacent Wetlands:  
Not Applicable.

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

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

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

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

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

Wetland Name	Flow	Explain
Wetland 1	PERENNIAL	Wetland system outflows entire year.

Provide acreage estimates for jurisdictional wetlands in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
Wetland 1	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	72438.7224
Total:		0	72438.7224

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

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

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

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

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

Not Applicable.

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

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

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

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

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

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

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

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

Other (Explain):

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

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

**SECTION IV: DATA SOURCES.**

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

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	-	-
--Data sheets prepared/submitted by or on behalf of the applicant/consultant	-	-
---Office concurs with data sheets/delineation report	-	-
--U.S. Geological Survey Hydrologic Atlas	-	-
---USGS 8 and 12 digit HUC maps	-	-
--U.S. Geological Survey map(s).	-	-
--USDA Natural Resources Conservation Service Soil Survey.	-	-
--National wetlands inventory map(s).	-	-
--State/Local wetland inventory map(s):	-	-
--FEMA/FIRM maps	-	-
--Photographs	-	-
---Aerial	-	-
--Applicable/supporting case law	-	-
--Other information	-	-

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

**Description**  
 Site visit on 11/30/2010 to trace flow; conversations with local homeowner/expert.

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

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

JD Status: DRAFT

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 12-Nov-2010

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, LRC-2010-00603-JD2

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

**State :** IL - Illinois  
**County/parish/borough:** Cook  
**City:** South Barrington  
**Lat:** 42.09361  
**Long:** -88.13387  
**Universal Transverse Mercator** Folder UTM List  
*UTM list determined by folder location*  
 • NAD83 / UTM zone 16N  
Waters UTM List  
*UTM list determined by waters location*

**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: 22-Nov-2010  
 Field Determination Date(s): 28-Sep-2010

**SECTION II: SUMMARY OF FINDINGS**

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

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

Waters subject to the ebb and flow of the tide.

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

**Explain:**

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

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

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

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

Water Name	Water Type(s) Present
Poplar Creek	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs
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:** (m<sup>2</sup>)  
**Linear:** (m)

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

based on:

OHWM Elevation: (if known)

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

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

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW

Not Applicable.

2. Wetland Adjacent to TNW

Not Applicable.

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

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

(i) General Area Conditions:

Watershed size:

Drainage area:

Average annual rainfall: inches

Average annual snowfall: inches

(ii) Physical Characteristics

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through [ ] tributaries before entering TNW.

:Number of tributaries

Project waters are river miles from TNW.

Project waters are river miles from RPW.

Project Waters are aerial (straight) miles from TNW.

Project waters are aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

Explain:

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

Tributary Stream Order, if known:

Order	Tributary Name
1	Poplar Creek

(b) General Tributary Characteristics:

Tributary is:

Tributary Name	Natural	Artificial	Explain	Manipulated	Explain
Poplar Creek	X	-	-	-	-

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

Tributary Name	Width (ft)	Depth (ft)	Side Slopes
Poplar Creek	12	2	4:1 (or greater)

Primary tributary substrate composition:

Tributary Name	Silt	Sands	Concrete	Cobble	Gravel	Muck	Bedrock	Vegetation	Other
Poplar Creek	X	-	-	-	X	X	-	-	-

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

Tributary Name	Condition\Stability	Run\Riffle\Pool Complexes	Geometry	Gradient (%)
Poplar Creek	Tributary is stable with vegetated banks of trees and shrubs.	Some small riffles and pools.	Meandering	1

**(c) Flow:**

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

**Surface Flow is:**

Tributary Name	Surface Flow	Characteristics
Poplar Creek	Discrete and confined	Defined bed and bank.

**Subsurface Flow:**

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

**Tributary has:**

Tributary Name	Bed & Banks	OHWM	Discontinuous OHWM <sup>7</sup>	Explain
Poplar Creek	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:**

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
Poplar Creek	Water color is cloudy.	Sediment; road salt and grease.

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

Tributary Name	Riparian Corridor	Characteristics	Wetland Fringe	Characteristics	Habitat
Poplar Creek	X	Forested, 50-100' wide.	-	-	-

**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
Wetland A	26.82	Emergent	High 23.5FQI	-

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

**Flow is:**

Wetland Name	Flow	Explain
Wetland A	Perennial flow.	-

**Surface flow is:**

Wetland Name	Flow	Characteristics
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Wetland A	Overland sheetflow	Creek bisects wetland, so volume of flow increases width of flow in wetland.
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**Subsurface flow:**

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

**(c) Wetland Adjacency Determination with Non-TNW:**

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

**(d) Proximity (Relationship) to TNW:**

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
Wetland A	10-15	5-10	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
Wetland A	-	Sediment; road salt and grease.

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

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
Wetland A	X	Forested, 50-100' wide.	-	-

**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
Poplar Creek	PERENNIAL	Creek flows year-round.

Provide estimates for jurisdictional waters in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
Poplar Creek	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs	304.8	-
<b>Total:</b>		<b>304.8</b>	<b>0</b>

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

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

Not Applicable.

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

Wetland Name	Flow	Explain
Wetland A	PERENNIAL	Wetland directly abutting poplar creek.

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

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
Wetland A	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	108536.67792
<b>Total:</b>		<b>0</b>	<b>108536.67792</b>

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

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

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

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

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

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

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

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

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

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

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

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

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

Other (Explain):

**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.

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

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

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

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

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

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

<sup>7</sup>-Ibid.

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

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

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

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 02-Nov-2010

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2010-00280-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IN - Indiana  
 County/parish/borough: Porter  
 City: unincorporated  
 Lat: 41.53399  
 Long: -86.95494  
 Universal Transverse Mercator: Folder UTM List  
*UTM list determined by folder location*  
 • NAD83 / UTM zone 16N  
Waters UTM List  
*UTM list determined by waters location*  
 • NAD83 / UTM zone 16N  
 Name of nearest waterbody: Crooked Creek  
 Name of nearest Traditional Navigable Water (TNW): Kankakee River  
 Name of watershed or Hydrologic Unit Code (HUC): 07120001090130

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 02-Nov-2010  
 Field Determination Date(s): 29-Jun-2010

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

There "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.  
 Waters subject to the ebb and flow of the tide.  
 Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.  
 Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

1. Waters of the U.S.

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

Water Name	Water Type(s) Present
LRC-2010-280 Wetland 1	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
LRC-2010-280 Wetland 2	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: 4600 (m<sup>2</sup>)  
 Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on: Not established at this time.  
 OHWM Elevation: (if known)

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

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

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW  
 Not Applicable.

2. Wetland Adjacent to TNW  
 Not Applicable.

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

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

(i) General Area Conditions:

Watershed size: 14079 acres  
 Drainage area: 700 acres  
 Average annual rainfall: 26 inches  
 Average annual snowfall: 14 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 20-25 river miles from TNW.

Project waters are 1-2 river miles from RPW.

Project Waters are 15-20 aerial (straight) miles from TNW.

Project waters are 1-2 aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

Explain:

Identify flow route to TNW:<sup>6</sup>

Wetland 1 is connected to wetland on south side of 700 N via CMP. It is likely that both Wetland 1 and Wetland 2 were historically part of same wetland complex as located on south side of 700N. The wetland continues south (mapped on NWI and soil survey), portions of it appear to be excavated into open water bodies (ponds) which appear to eventually connect to an open ditch/drainageway that is not mapped on the USGS. This drainageway drains into a more defined ditch/channel (also not mapped on USGS) which drains into Crooked Creek, mapped as solid blue line drainage on the USGS. Crooked Creek eventually turns into Koselke Ditch which in turn drains into Heinold Ditch. Heinold Ditch drains into the Kankakee River, a TNW.

Tributary Stream Order, if known:

Not Applicable.

(b) General Tributary Characteristics:

Tributary is:

Not Applicable.

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

Not Applicable.

Primary tributary substrate composition:

Not Applicable.

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

Not Applicable.

(c) Flow:

Not Applicable.

Surface Flow is:

Not Applicable.

Subsurface Flow:

Not Applicable.

Tributary has:

Not Applicable.

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

High Tide Line indicated by:

Not Applicable.

Mean High Water Mark indicated by:

Not Applicable.

(iii) Chemical Characteristics:

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

Not Applicable.

(iv) Biological Characteristics. Channel supports:

Not Applicable.

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland Name	Size (Acres)	Wetland Type	Wetland Quality	Cross or Serve as State Boundaries. Explain
LRC-2010-280 Wetland 1	5.13	forested wetland complex	above average	N/A
LRC-2010-280 Wetland 2	2.27	scrub shrub wetland complex with an open water pond in the center and a forested fringe located on its eastern portion.	above average.	N/A.

(b) General Flow Relationship with Non-TNW:

Flow is:

Wetland Name	Flow	Explain
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LRC-2010-280 Wetland 1	Intermittent flow.	-
LRC-2010-280 Wetland 2	Intermittent flow.	-

**Surface flow is:**

Wetland Name	Flow	Characteristics
LRC-2010-280 Wetland 1	Discrete and confined	Appears to flow below ground and over land.
LRC-2010-280 Wetland 2	Discrete and confined	-

**Subsurface flow:**

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
LRC-2010-280 Wetland 1	Unknown	Most likely portions of connection from Wetland 1 to TNW are tiled.	-
LRC-2010-280 Wetland 2	Unknown	Most likely portions of connection from Wetland 2 to TNW are tiled.	-

**(c) Wetland Adjacency Determination with Non-TNW:**

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
LRC-2010-280 Wetland 1	No	X	X	-
LRC-2010-280 Wetland 2	No	X	X	-

**(d) Proximity (Relationship) to TNW:**

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
LRC-2010-280 Wetland 1	20-25	15-20	Wetland to navigable waters	100 - 500-year
LRC-2010-280 Wetland 2	20-25	15-20	Wetland to navigable waters	100 - 500-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
LRC-2010-280 Wetland 1	-	-
LRC-2010-280 Wetland 2	-	-

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

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
LRC-2010-280 Wetland 1	-	-	X	Different types of wetland exhibiting different amounts of percent cover comprise Wetland 1.
LRC-2010-280 Wetland 2	-	-	X	Different types of wetland exhibiting different amounts of percent cover comprise Wetland 2.

**Habitat for:**

Wetland Name	Habitat	Federally Listed Species	Explain Findings	Spawn Area	Explain Findings	Other Environmentally Sensitive Species	Explain Findings	Aquatic/Wildlife Diversity	Explain Findings
LRC-2010-280 Wetland 1	X	-	-	-	-	X	It is likely that state-listed or federally-listed species have been documented in the area.	X	Wetlands are habitat for any type of organism that depends on water for its food sources, for nesting/resting/breeding, and/or for any part of its life cycle.
LRC-2010-280 Wetland 2	-	-	-	-	-	X	It is likely that state-listed or federally-listed species have been documented in the area.	X	Wetlands are habitat for any type of organism that depends on water for its food sources, nesting/resting/breeding, and/or for any part of their life cycle.

**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.

**Findings for: LRC-2010-280 Wetland 1, LRC-2010-280 Wetland 2**

Both wetland areas have the same basic connection to TNW, the Kankakee River. Wetland 1 is a large 5+ acre forested wetland complex that is connected to an off-site wetland on the south side of CR 700 N via a corrugated metal pipe. Wetland 2 is a relatively large 2+ acre scrub shrub wetland complex that is located near (within about 200 feet of) an off-site wetland on the south side of CR 700N. It is possible that pipe providing connection from Wetland 2 to off-site wetland south of CR 700N has collapsed or has settled out of view. The wetland on the south side of the road appears to be hydrologically connected to Crooked Creek by existing wetland, assumed created open water bodies (likely excavated wetlands), potential overland drainages, field tile, and open, bed and bank draineways. The entire site, including Wetland 1 and Wetland 2, drains to the southeast towards Crooked Creek → the USGS topo reflects this by showing a fall of over 60 feet in elevation in the approximate 8000 feet that

separates Wetland 1 and Wetland 2 and the RPW. It is likely that a more obvious connection to waters of the US from Wetland 1 was altered by construction of CR 700N as well as by construction of homes and buildings in the area. Wetland 1 and Wetland 2 perform many biological functions including nesting, breeding, and forage habitat for wildlife including, but not limited to, amphibians, birds, mammals, and insects. Wetland 1 and Wetland 2 also provide biological functions in their native soils and the many biological processes that occur there, down to the microscopic level. Chemical functions the subject wetlands provide include pollutant filtering, absorption of excess nutrients, biogeochemical cycling, and overall benefit to water chemistry due to shading, infiltration, and flood attenuation functions that wetlands provide. Physical functions the subject wetlands provide include flood storage volume, flow maintenance, groundwater recharge/discharge, sediment trapping, reduction of soil erosion, and recreation.

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

**1. TNWs and Adjacent Wetlands:**

Not Applicable.

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

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

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

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

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

Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

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

Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

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

Not Applicable.

Provide estimates for jurisdictional wetlands in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
LRC-2010-280 Wetland 1	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs	-	20760.37128
LRC-2010-280 Wetland 2	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs	-	9186.36312
<b>Total:</b>		<b>0</b>	<b>29946.7344</b>

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

Not Applicable.

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

Not Applicable.

Identify water body and summarize rationale supporting determination:

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

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

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

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

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

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

Other (Explain):

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

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 Delineation Report	Dated May 6, 2010 prepared by Soil Solutions, Inc.
-Data sheets prepared/submitted by or on behalf of the applicant/consultant	-	-
---Office concurs with data sheets/delineation report	Wetland Delineation Report	Dated May 6, 2010 prepared by Soil Solutions, Inc.
---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).	-	-
-State/Local wetland inventory map(s):	-	-
-Photographs	-	-
---Aerial	aerial photograph review.	2003, 2005, 2007, 2009, 2010 aerial photographs were reviewed.

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

Not Applicable.

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

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

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

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

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

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

<sup>7</sup>-Ibid

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

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

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