

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

SECTION I: BACKGROUND INFORMATION

- A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 2/5/2009**
B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District. **Fox River, LRC-2009-70, St. Charles Riverwall**
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** "*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 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

JD Status: DRAFT

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 26-Nov-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00618-JD5

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
 County/parish/borough: Cook
 City: Des Plaines
 Lat: 42.0461074522826
 Long: -87.8743855106004
 Universal Transverse Mercator
Folder UTM List
UTM list determined by folder location

NAD83 / UTM zone 38S

Waters UTM List

UTM list determined by waters location

NAD83 / UTM zone 38S

Name of nearest waterbody:

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:

01-Dec-2008

Office Determination Date:

26-Nov-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

Wetland 10	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
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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: 36.27 inches
Average annual snowfall: 38 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

Tributary directly into 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 10	.05	Forested	Medium	-
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(b) General Flow Relationship with Non-TNW:

Flow is:

Wetland 10	Perennial flow.
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Surface flow is:

Wetland 10	Discrete	Flow is mainly through the meandering tributary, but in large storm events it will sheet flow across the surrounding wetlands.
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Subsurface flow:

Wetland 10	Unknown	-
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(c) Wetland Adjacency Determination with Non-TNW:

Wetland 10	Yes	-
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(d) Proximity (Relationship) to TNW:

Wetland 10	Proximity to TNW	-
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Wetland 10	1 (or less)	1 (or less)	Wetland to navigable waters	5 - 10-year
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(ii) Chemical Characteristics:
 Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Wetland 10	-	Sediment, road salt and oils.		
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(iii) Biological Characteristics. Wetland supports:

Wetland 10	X	100 feet width or more of forested wetland with an herbaceous layer.	-	-
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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: Wetland 10

Wetland 10 (approx. 2 ac.) is adjacent and contiguous to the tributary to the Des Plaines River, which has seasonal relative permanent flow, and exhibits a surface water connection to a traditional navigable waterway. This surface water connection demonstrates the ability of the tributary to carry pollutants, flood waters, nutrients and organic carbon to the TNW. The adjacent wetlands have the ability to reduce the amount of pollutants and floodwaters reaching the TNW. This wetland is receiving a percentage of its water from groundwater and from runoff from the surrounding uplands before it flows into Des Plaines River. Wetlands such as these provide stormwater storage, habitat, sediment/toxicant retention and nutrient removal/transformation. The decrease of sedimentation, pollutants, flooding, nutrients and habitat provided by the subject wetland provides a positive effect to the downstream relatively permanent waters and traditional navigable waters. The wetland alone, and in combination with other area wetlands, significantly affect the chemical, physical and biological integrity of the Des Plaines River. Stormwater storage provided by the subject wetlands affect the frequency and extent of downstream flooding, decreasing flood peaks in the Des Plaines River, and in turn impacting navigation and downstream bank erosion and sedimentation. The sediment and pollutant/toxicant retention provided by the subject wetland has a direct positive effect on the Des Plaines River in regards to navigation and aquatic food webs that are not adapted to thrive in sediment-choked environments. These factors contribute to the finding of a significant nexus between the on-site wetland 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:
Not Applicable.

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

Wetland Type	Description	Acres
Wetland 10	PERENNIAL The subject wetlands contribute flow to the tributary, in addition to storm water, such that the tributary flows year-round to the adjacent TNW.	202.3428

Provide acreage estimates for jurisdictional wetlands in the review area:

Wetland Type	Description	Acres	Total
Wetland 10	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	202.3428
Total:		0	202.3428

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):

--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	-	
--Corps navigable waters study	-	
--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	-	
--Applicable/supporting case law	-	
--Other information	-	

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Tributary with it's adjacent wetlands also receives stormwater flows from nearby residential areas such that there is always a source of water.

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): 26-Nov-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00618-JD6

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
County/parish/borough: Cook
City: Des Plaines
Lat: 42.0461074522826
Long: -87.8743855106004
Universal Transverse Mercator

Folder UTM List
UTM list determined by folder location

NAD83 / UTM zone 38S

Waters UTM List
UTM list determined by waters location

NAD83 / UTM zone 38S
Des Plaines River

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: 01-Dec-2008
Field Determination Date(s): 26-Nov-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

Wetland 1	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs
Wetland 2	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: 934048 acres
 Drainage area: 836673 acres
 Average annual rainfall: 36.27 inches
 Average annual snowfall: 38 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
 Tributary flows directly into TNW

Tributary Stream Order, if known:

Order	Tributary Stream
1	Wetland 1

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

Stream Name	Location	Flow Direction	Flow Type

Wetland 1	X	-	-	-	-	-
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Tributary properties with respect to top of bank (estimate):

Wetland 1	5	1	3:1
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Primary tributary substrate composition:

Wetland 1	X	X	-	X	-	-
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Tributary (conditions, stability, presence, geometry, gradient):

Wetland 1	Tributary is very stable; surrounded by vegetation.	Absent	Meandering	2
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(c) Flow:

Wetland 1	Seasonal flow	20 (or greater)	Tributary flows during and after rain events.	-
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Surface Flow is:

Wetland 1	Discrete and confined	Very rocky and defined cut through the forest landscape.
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Subsurface Flow:

Wetland 1	Unknown	-
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Tributary has:

Wetland 1	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.).

Wetland 1	Water color is cloudy with some oily film as it comes off the adjacent residential areas.	Road salt, sediment and vehicle fluids.
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(iv) Biological Characteristics. Channel supports:

Wetland 1	X	Herbaceous vegetation line channel, about 5 feet wide on average, as it flows through the woods.	-
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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	Substrate	Wetland Type	Water Quality	Channel and/or Stream Bankside Exposure
Wetland 2	.21	Forested	Medium	-

(b) General Flow Relationship with Non-TNW:

Flow is:

Wetland 2	Intermittent flow.
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Surface flow is:

Wetland 2	Overland sheetflow	Flood flows are wide and shallow; no real channel until just before entering the TNW.
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Subsurface flow:

Wetland 2	Unknown	-
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(c) Wetland Adjacency Determination with Non-TNW:

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Wetland 2	Yes	-	-
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(d) Proximity (Relationship) to TNW:

Wetland 2	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
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(ii) Chemical Characteristics:

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

Wetland 2	-	Sediment, road salts and oils.		
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(iii) Biological Characteristics. Wetland supports:

Wetland 2	-	X	Forested, shrubs and herbaceous vegetation cover almost 100%.
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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: Wetland 1, Wetland 2

Wetland 1 (approx. 0.01 ac.) and wetland 2 (approx. 0.21 ac.) within the crossing ROW, have seasonal relative permanent flow, and exhibits a surface water connection to a traditional navigable waterway. This surface water connection demonstrates the ability of the tributary to carry pollutants, flood waters, nutrients and organic carbon to the TNW. The adjacent wetlands have the ability to reduce the amount of pollutants and floodwaters reaching the TNW. The wetlands are receiving a percentage of their water from groundwater and from runoff from the surrounding uplands before it flows into Des Plaines River. Wetlands such as these provide stormwater storage, habitat, sediment/toxicant retention and nutrient removal/transformation. The decrease of sedimentation, pollutants, flooding, nutrients and habitat provided by the subject wetland provides a positive effect to the downstream relatively permanent waters and traditional navigable waters. The wetland alone, and in combination with

other area wetlands, significantly affect the chemical, physical and biological integrity of the Des Plaines River. Stormwater storage provided by the subject wetlands affect the frequency and extent of downstream flooding, decreasing flood peaks in the Des Plaines River, and in turn impacting navigation and downstream bank erosion and sedimentation. The sediment and pollutant/toxicant retention provided by the subject wetland has a direct positive effect on the Des Plaines River in regards to navigation and aquatic food webs that are not adapted to thrive in sediment-choked environments. These factors contribute to the finding of a significant nexus between the on-site wetland 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:

Wetland Name	Flow Type	Description	Area (Acres)
Wetland 1	SEASONAL	Wetland 1 flows mainly during storm events, with water coming mainly from the upland areas off-site through storm sewers, then discharging into the tributary to the Des Plaines River.	40.46856
Total:			40.46856

Provide estimates for jurisdictional waters in the review area:

Wetland 1	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs	-	40.46856
Total:		0	40.46856

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

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

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

Wetland Name	Flow Type	Description	Area (Acres)
Wetland 2	SEASONAL	Wetland sheet flows before discharging into the TNW; takes water from road drainage and surrounding uplands.	849.83976
Total:			849.83976

Provide acreage estimates for jurisdictional wetlands in the review area:

Wetland 2	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	849.83976
Total:		0	849.83976

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):

--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	-
--Corps navigable waters study	-
--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	-
--Applicable/supporting case law	-
--Other information	-

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Wetlands 1 and 2 take water from a large upland drainage area that discharges water during every rain event.
--

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): 19-Nov-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2006-01136-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
County/parish/borough: Kane
City: Aurora
Lat: 41.7488134
Long: -88.32645
Universal Transverse Mercator

Folder UTM List
UTM list determined by folder location
Enter LRC-2006-01136 location information to display the UTM list.

Waters UTM List
UTM list determined by waters location

- NAD83 / UTM zone 37S

Name of nearest waterbody: Fox River
Name of nearest Traditional Navigable Water (TNW): Fox River
Name of watershed or Hydrologic Unit Code (HUC): 07120007

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

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 12-Mar-2009

Field Determination Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

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

Waters subject to the ebb and flow of the tide.

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

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

1. Waters of the U.S.

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

Water Name Water Type(s) Present

Fox River 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

0 Fox River

(b) General Tributary Characteristics:

Tributary Name: Fox River
 Natural: Artificial: Explain: Manipulated: Explain: Urban development to most banks, so steeper, and with some road crossings. Overall though, the main channel is natural.

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

Tributary Name: Fox River
 Width (ft): 300
 Depth (ft): 20
 Side Slopes: 2:1

Primary tributary substrate composition:

Tributary Name: Fox River
 Silt: Sands: Concrete: Cobble: Gravel: Muck: Bedrock: Vegetation: Other:

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

Tributary Name: Fox River
 Condition/Stability: Stable with stone banks. Absent, the river is deep and flows strong.
 Run/Riffle/Pool Complexes: Meandering
 Geometry: Meandering
 Gradient (%): 2

(c) Flow:

Tributary Name: Fox River
 Provides for Events Per Year: 20 (or greater)
 Flow Regime: Navigable waterway flows year-round.
 Duration & Volume:

Surface Flow is:

Tributary Name: Fox River
 Surface Flow: Discrete and confined
 Characteristics: Large waterway in urban area with defined channel, bed and banks.

Subsurface Flow:

Tributary Name: Fox River
 Subsurface Flow: Unknown
 Explain Findings: Dye (or other) Test

Tributary has:

Tributary Name: Fox River
 Bed & Banks: OHWM:
 Discontinuous OHWM: Explain:

Tributaries with OHWM⁶ - (as indicated above)

Tributary Name: Fox River
 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: Other:

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
Fox River River is clouded due to multiple tributary inputs with pollution; sometimes foams and/or smells of sewage in large storm events. Sewage, sediment, road salt, trash.

(iv) Biological Characteristics. Channel supports:
Tributary Name Riparian Corridor Characteristics Wetland Fringe X Small scattered wetland fringe communities where bank creates area of deposition. Characteristics Habitat
Fox River

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
Fox River	SEASONAL	River flows year round.

Provide estimates for jurisdictional waters in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m ²)
Fox River	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs	2414.016	
Total:		2414.016	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
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Wetland Report	Fall 2007 Jurisdictional Wetland Determination by Watershed Resource Consultants, inc.
--Data sheets prepared/submitted by or on behalf of the applicant/consultant		
-- Office concurs with data sheets/delineation report		
--Corps navigable waters study		
--U.S. Geological Survey Hydrologic Atlas		
--U.S. Geological Survey map(s).		
--Photographs		
--Aerial		
--Applicable/supporting case law		
--Other information		

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description

The Fox River is a major river in the area, with several dams, and is a navigable water of the U.S.

- 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 Repeanos.

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): 04-Feb-2009

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2009-00069-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
 County/parish/borough: Kane
 City: Unincorporated Pingree Grove
 Lat: 42.08880606237712
 Long: -88.39508706544609
 Universal Transverse Mercator
 Folder UTM List
 UTM list determined by folder location
 • NAD83 / UTM zone 38S
 Waters UTM List
 UTM list determined by waters location
 • NAD83 / UTM zone 38S

Name of nearest waterbody: Tyler Creek

Name of nearest Traditional Navigable Water (TNW): Fox River

Name of watershed or Hydrologic Unit Code (HUC): 07120007

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

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 12-Mar-2009

Field Determination Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

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

Waters subject to the ebb and flow of the tide.

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

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

1. Waters of the U.S.

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

Water Name Water Type(s) Present

Pingree Creek Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs
 Tyler 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	Tyler Creek
2	Pingree Creek

(b) General Tributary Characteristics:

Tributary Name	Natural	Artificial	Explain	Manipulated	Explain
Pingree Creek	-	-	-	X	Channel straightened for road crossing historically.
Tyler Creek	-	-	-	X	Straightened historically to run alongside roadway.

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

Tributary Name	Width (ft)	Depth (ft)	Side Slopes
Pingree Creek	20	6	2:1
Tyler Creek	20	8	2:1

Primary tributary substrate composition:

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

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

Tributary Name	Condition/Stability	Run/Riffle/Pool Complexes	Geometry	Gradient (%)
Pingree Creek	Eroded lower slopes, and upper slopes vegetated by herbaceous and woody vegetation.	Small and infrequent.	Relatively straight	1
Tyler Creek	Lower banks eroded, upper banks vegetated with herbaceous and woody vegetation.	Normal for this type of creek, scattered and small.	Relatively straight	1

(c) Flow:

Tributary Name	Provides for	Events Per Year	Flow Regime	Duration & Volume
Pingree Creek	Perennial flow	20 (or greater)	Creek flows year-round, heavier in spring and fall.	-
Tyler Creek	Perennial flow	20 (or greater)	Creek flows year-round, greater flow in spring and fall.	-

Surface Flow is:

Tributary Name	Surface Flow	Characteristics
Pingree Creek	Discrete and confined	Defined bed and banks.
Tyler Creek	Discrete and confined	Defined bed and bank.

Subsurface Flow:

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

Tributary has:

Tributary Name	Bed & Banks	OHWM	Discontinuous OHWM	Explain
Pingree Creek	-	-	-	-
Tyler Creek	-	-	-	-

Tributaries with OHWM ⁶ - (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	Other
Pingree Creek	X	X	-	-	-	-	-	-	-	-	X	-	-	-	-	-
Tyler Creek	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.

(ii) 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

Pingree Creek Waterway is cloudy during storm events. Mostly farm sediment, pesticides and fertilizers; as well as road salt.

Tyler Creek Tributary in cloudy during rain events. Mostly farm sediment, pesticides and fertilizers; and road salt.

(iv) Biological Characteristics. Channel supports:

Tributary Name	Riparian Corridor	Characteristics	Wetland Fringe	Characteristics	Habitat
Pingree Creek	X	100' wide forested buffer strip total for both sides.	-	-	-
Tyler Creek	X	200 Foot total with adjacent wetlands.	-	-	-

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
Pingree Creek	SEASONAL	Creek flows year round.
Tyler 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)
Pingree Creek	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs	60.96	
Tyler Creek	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs	312.42	
Total:		373.38	0

3. Non-RPWs that flow directly or indirectly into TNWs:⁵
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 (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
---------------	--------------	--------------------

Wetland Delineation Report	CBBEL report dated Feb. 2, 2009.
--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	
--Corps navigable waters study	
--U.S. Geological Survey Hydrologic Atlas	
--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

Both Tyler and Pingree Creeks are perennial creeks that merge at the subject location, and flow to the Fox River.

- 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):** 25-Jan-2009**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, LRC-2009-00023-JD4**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State : IL - Illinois
County/parish/borough: McHenry
City: Woodstock
Lat: 42.2824239415325
Long: -88.39760999999996
Universal Transverse Mercator
Folder UTM List
UTM list determined by folder location

- NAD83 / UTM zone 38S

Waters UTM List
UTM list determined by waters location

- NAD83 / UTM zone 38S

Name of nearest waterbody:**Name of nearest Traditional Navigable Water (TNW):** Rock River**Name of watershed or Hydrologic Unit Code (HUC):** Kishwaukee 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: 15-Jan-2009

Field Determination Date(s): 09-Jan-2009

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

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

Waters subject to the ebb and flow of the tide.

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

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

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

1. Waters of the U.S.

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

Water Name	Water Type(s) Present
LRC-2009-23 Wetland 2	Non-RPWs that flow directly or indirectly into TNWs
LRC-2009-23 Wetland 1	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: 73652 (m²)
 Linear: (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: 23333 acres
 Drainage area: 225 acres
 Average annual rainfall: 36 inches
 Average annual snowfall: 38 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 30 (or more) river miles from TNW.
Project waters are 1-2 river miles from RPW.
Project Waters are 30 (or more) 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

There is an excavated hole in the southeast portion of the on-site wetland that accepts a drain tile from the east and a 15" CMP drain tile from the excavated channel that extends for approximately 4200 feet through the wetland. From this point within the wetland, water was photographed during the January 9, 2009 site visit entering a 15" CMP that travels south, southeast roughly 730 feet and discharges in an excavated ditch. This ditch is the non-RPW, although it is expected that it holds water for most or all of the year. This ditch conveys water above ground to the south for roughly 800 feet before re-entering drain tile. The southernmost portion of this ditch was photographed during the January 9, 2009 site visit. There are two drain tile inlets at this location. One drain tile enters the other after traveling a short distance to the east. This 15" concrete tile extends approximately 1100 feet to the east before turning southerly at a 15" plastic riser pipe. The drain tile extends an estimated 800 feet before discharging off-site in an excavated drainage ditch. This ditch is considered a RPW and likely holds water all year. It conveys water above-ground to the south before turning westward and finally discharging into the Kishwaukee River (RPW) after approximately 3,400 feet. In the drain tile survey, the above stretch of drain tile was reported to be full of water in all areas that were inspected. In summary, there are two stretches of drain tile separating the wetland from an RPW. One stretch is between the wetland and the non-RPW. Again, this is only a non-RPW because it then discharges into a second stretch of drain tile, before discharging off-site into a RPW.

Tributary Stream Order, if known:

Order	Tributary Name
1	LRC-2009-23 Wetland 2

(b) General Tributary Characteristics:

Tributary is:	Natural	Artificial	Explain	Manipulated	Explain
LRC-2009-23 Wetland		X	Excavated ditch. This area appears to be somewhat wet on the 1939 aerial, so it may have conveyed some water in the past.		

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

Tributary Name	Width (ft)	Depth (ft)	Side Slopes
LRC-2009-23 Wetland 2	10	6	2:1

Primary tributary substrate composition:

Tributary Name	Silt	Sands	Concrete	Cobble	Gravel	Muck	Bedrock	Vegetation	Other
LRC-2009-23 Wetland 2	X								

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

Tributary Name	Condition\Stability	Run\Riffle\Pool Complexes	Geometry	Gradient (%)

LRC-2009-23 Wetland 2 It was viewed in winter, but it appears to be stable. Relatively straight 0

(c) Flow:	Tributary Name	Provides for	Events Per Year	Flow Regime	Duration & Volume
	LRC-2009-23 Wetland 2	Perennial flow	20 (or greater)	Water was present when the Corps site visit was conducted. It appears to have been wet during the wetland delineation site visits based on the 2 wetland delineation reports. The drain tile was reported to be full of water during the drain tile survey. Based on this information, it is thought that there is a relatively permanent flow of water through the tributary.	The slope of the tributary is relatively flat. Water is thought to flow through the system very slowly. This probably contributes to the fact that water appears to be relatively permanent. The long period of time to get through the system is probably a benefit to water quality, allowing longer time within the upstream wetland and within the tributary allowing increased sediment trapping capabilities.

Surface Flow is:

Tributary Name	Surface Flow	Characteristics
LRC-2009-23 Wetland 2	Confined	Surface flow is in a confined drainage ditch

Subsurface Flow:

Tributary Name	Subsurface Flow	Explain Findings	Dye (or other) Test
LRC-2009-23 Wetland 2	Yes	Between the wetland and the open drainage ditch, and the ditch and the downstream RPW, water flows through drain tile.	

Tributary has:

Tributary Name	Bed & Banks	OHWM	Discontinuous OHWM?	Explain
LRC-2009-23 Wetland 2	X	X	-	

Tributaries with OHWM⁶ - (as indicated above)
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.).
Tributary Name Explain Identify specific pollutants, if known
LRC-2009-23 Wetland 2 The water in the tributary appears clear.

(iv) Biological Characteristics. Channel supports: **Characteristics**
 Tributary Name **Riparian Corridor** **Wetland Fringe** **Characteristics** **Habitat**
 LRC-2009-23 Wetland 2 X Roughly 20 feet in width with some small trees. No plant inventory was taken in this area.

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Wetland Name	Size (Acres)	Wetland Type	Wetland Quality	Cross or Serve as State Boundaries. Explain
LRC-2009-23 Wetland 1	76.5	PEMc - Palustrine, emergent, temporary. McHenry ADID study lists this wetland as a marsh community.	Listed in the McHenry County ADID wetland study as wetland K673, a high quality wetland for habitat. The wetland report completed by the applicants consultant lists an FQI of 12-13. The ADID wetland study lists and FQI of 24.7.	

(b) General Flow Relationship with Non-TNW:

Flow is:

Wetland Name	Flow	Explain
LRC-2009-23 Wetland 1	Perennial flow.	

Surface flow is:

Wetland Name	Flow	Characteristics
LRC-2009-23 Wetland 1	Overland sheetflow	The wetland is very flat allowing water to flow slowly through the wetland and eventually toward the south. There is a very deep, excavated drainage ditch beginning in the western farmed wetland that extends along the northern portion of the wetland before turning south where it eventually enters drain tiles that convey water off-site to the south towards the Kishwaukee River. Water was evident in this location within the excavated hole and drainage ditch. The ice was open in the areas where the water entered the excavated hole and where it entered the drain tile that conveyed the water to the south. In the 2003 and 2007 wetland delineation reports provided by Ehorn Environmental, there was approximately 4 inches of water depth at plot 3, which appears to be near the excavated hole. The total length of the ditch along the north and east sides of the wetland is approximately 4,200 feet.

Subsurface flow:

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
LRC-2009-23 Wetland 1	Yes	Water drains into and out of the wetland through drain tiles.	

(c) Wetland Adjacency Determination with Non-TNW:

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
LRC-2009-23 Wetland 1	No	X		

(d) Proximity (Relationship) to TNW:

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
LRC-2009-23 Wetland 1				

LRC-2009-23 Wetland 1 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

LRC-2009-23 Wetland 1

(iii) Biological Characteristics. Wetland supports:

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
LRC-2009-23 Wetland 1	-	-	X	76% native vegetative cover

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-2009-23 Wetland 1	X	-	-	-	-	X	A diversere range of wetland vegetation	X	Sandhill Crane identified by EcoCAT in the area

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-2009-23 Wetland 2, LRC-2009-23 Wetland 1

The wetland in question contains an excavated ditch running from west to east along the entire northern border and part of the eastern boundary. In the eastern portion of the wetland at the terminus of the excavated ditch, water is discharged into drain tiles that visibly transport water towards the south. From this point, the water travels through drain tile, then through an excavated ditch, followed by more drain tile, and into another excavated ditch (an RPW). At the end of the above described tributary, water discharges into the Kishwaukee River (a RPW). Portions of the Kishwaukee River are rated class A. The Kishwaukee River is tributary to the Rock River, a traditional navigable water (TNW). The direct water connection between the wetland and the Kishwaukee River demonstrates the ability of the tributary to carry pollutants, flood waters, nutrients and organic carbon to the TNW. The wetland in question has the ability to reduce the amount of pollutants and floodwaters reaching the TNW. The wetland supports a high diversity of native plant species. The wetland is identified on the McHenry County Advanced Identified (ADID) wetland map (ADID wetland K673) as being a high habitat wetland. High quality habitat sites are considered irreplaceable based on the fact that the complex biological systems and functions that these sites support cannot be successfully recreated within a reasonable time frame using existing restoration or creation methods. These wetlands also provide stormwater storage, sediment/toxicant retention and nutrient removal/transformation. The decrease of sedimentation, pollutants, and flooding and the benefits of nutrients and habitat provided by the subject wetland provides a positive effect to the downstream relatively permanent waters and traditional

navigable waters. The wetland is 94.7 acres in total size (76.5 on-site and 18.2 off-site) and provides habitat for various amphibians, birds and mammals. In particular, the EcoCAT (Ecological Compliance Assessment Tool) provided as a guide in natural resource reviews by the DNR identified the Sandhill Crane in the location of this wetland. The wetland alone and in combination with other area wetlands significantly affect the chemical, physical and biological integrity of the Rock River. Stormwater storage provided by this wetland affect the frequency and extent of downstream flooding, increasing flood peaks in the Kishwaukee River, eventually reaching the Rock River and in turn impacting navigation and downstream bank erosion and sedimentation. The sediment and pollutant/toxicant retention provided by the subject wetland has a direct positive effect on the Rock River in regards to navigation and aquatic food webs that are not adapted to thrive in sediment-choked environments. These factors contribute to the finding of a significant nexus between the on-site wetland 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) (m ²)
LRC-2009-23 Wetland 2	Non-RPWs that flow directly or indirectly into TNWs	243.84	-
Total:		243.84	0

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 ²)
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LRC-2009-23 Wetland 1 Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs - 309584.484
 Total: 0 309584.484

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	Subsurface Drain Tile Study	Completed by HLC Surveying dated 04/24/2007.
-Maps, plans, plots or plat submitted by or on behalf of the	Wetland Survey	Dated 06/12/2003. An updated survey would be required for a boundary concurrence.

applicant/consultant			
-Data sheets prepared/submitted by or on behalf of the applicant/consultant	2007 Wetland Data Sheets		Vegetation, soils, and hydrology data
-USDA Natural Resources Conservation Service Soil Survey.	Current Soil Map		Most of wetland is labeled as 103A - Houghton Much. This is a very poorly drained soil, prone to frequent ponding of water with a low depth the water table and a very high water holding capacity
-State/Local wetland inventory map (s).	NRCS Farmed Wetland Map		Identified farmed wetlands on-site
-State/Local wetland inventory map (s).	McHenry ADID Wetland Map		Identified ADID wetland K673, high habitat value wetland. Two farmed wetlands were also identified.
-FEMA/FIRM maps	FEMA Map		Identified a portion of the wetland on the FEMA map as within the 100-year floodplain.
-Photographs			
---Aerial	1939 Aerial		Shows presence of on-site wetland.
---Other	Photos taken by Corps		Photo 1: Water entering excavated hole from excavated ditch that runs along teh northern and a portion of teh eastern boundaries of teh wetland. Photo 2: Shows water exiting the excavated hole into drain tile. Photo 3: Shows water entering the drain tile at the southern end of the excavated ditch (the non-RPW) in the southern portion of teh site. Drain tile conveys water east from this point and off-site.
-Other information	1996 McHenry County ADID Study Data		Indicates a higher FQI than the wetland delineation report provided by Ehorn Environmental.

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.