

**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):** 02-Nov-2011

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, LRC-2011-00431-JD1

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

State : IN - Indiana  
 County/parish/borough: Lake  
 City:  
 Lat: 41.47129  
 Long: -87.31642  
 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: 02-Nov-2011
- Field Determination Date(s):

**SECTION II: SUMMARY OF FINDINGS**

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

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

- Waters subject to the ebb and flow of the tide.
- Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

**Explain:**

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

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

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

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

Water Name	Water Type(s) Present
Wetlands A, B, F, G, J, K	Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs

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

**Area:** .25 (m<sup>2</sup>)  
**Linear:** (m)

**c. Limits (boundaries) of jurisdiction:****based on:** 1987 Delineation Manual.**OHWM Elevation:** (if known)**2. Non-regulated waters/wetlands:<sup>3</sup>**

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

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

Not Applicable.

**2. Wetland Adjacent to TNW**

Not Applicable.

**B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):****1. Characteristics of non-TNWs that flow directly or indirectly into TNW****(i) General Area Conditions:****Watershed size:****Drainage area:****Average annual rainfall:** inches**Average annual snowfall:** inches**(ii) Physical Characteristics****(a) Relationship with TNW:**

- Tributary flows directly into TNW.
- Tributary flows through [ ] tributaries before entering TNW.

:Number of tributaries

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

- Project waters cross or serve as state boundaries.

**Explain:****Identify flow route to TNW:<sup>5</sup>****Tributary Stream Order, if known:**

Not Applicable.

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

Not Applicable.

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

Not Applicable.

**Primary tributary substrate composition:**

Not Applicable.

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

Not Applicable.

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

**Surface Flow is:**  
Not Applicable.

**Subsurface Flow:**  
Not Applicable.

**Tributary has:**  
Not Applicable.

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

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

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

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

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

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

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

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

**Flow is:**  
Not Applicable.

**Surface flow is:**  
Not Applicable.

**Subsurface flow:**  
Not Applicable.

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

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

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

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

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

**All wetlands being considered in the cumulative analysis:**

Wetland Name	Directly Abuts	Size (Area) (m <sup>2</sup> )
Wetlands A, B, F, G, J, K	No	1011.714

Total:	1011.714
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Summarize overall biological, chemical and physical functions being performed:

Wetland Name	Functional Summary
Wetlands A, B, F, G, J, K	Wetlands provide water quality improvement, flood storage and minimal habitat.

**C. SIGNIFICANT NEXUS DETERMINATION**

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

Significant Nexus: Not Applicable

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

**1. TNWs and Adjacent Wetlands:**

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
Wetlands A, B, F, G, J, K	Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs	-	1011.714
<b>Total:</b>		<b>0</b>	<b>1011.714</b>

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements:
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce:
- Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR):
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (Explain):
- Other (Explain):

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

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.

<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): 23-Aug-2011

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2011-00568-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
County/parish/borough: Lake
City: Lake Villa
Lat: 42.39133
Long: -88.00995
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: 14-Nov-2011
Field Determination Date(s): 25-Oct-2011

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
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: (m²)
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	3.1	Emergent	FQI = 18.7 (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 wetland complex bisected by road, so flow constrained into pipe after sheet flow to roadway.

Subsurface flow:

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
Wetland 1	Unknown	-	-

(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

**(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 1	-	Road salt, grease and oils around road.

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

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
Wetland 1	-	-	X	Large emergent marsh w/ 80-100% coverage.

**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 complex takes in groundwater and discharges to creek continuously.

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

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
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Wetland 1	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	12545.2536
<b>Total:</b>		<b>0</b>	<b>12545.2536</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):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Integrated Lakes Management	Wetland Delineation Report - June 29, 2011.
--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	-	-
----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	-	-
----Other	-	-
--Previous determination(s).	-	-
--Applicable/supporting case law	-	-
--Other information	-	-

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

**Description**

On-site meeting with Sandy Kubillus on October 25, 2011.

- <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): 21-Sep-2011

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2011-00611-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois  
 County/parish/borough: Lake  
 City:  
 Lat: 42.446  
 Long: -88.11049  
 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: 31-Oct-2011  
 Field Determination Date(s): 25-Oct-2011

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	3.51	Forested, shrub-scrub, with an understory of sedges and other herbaceous vegetation.	FQI = 34.1	-

(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	Overland flow through wetland, then confined to pipe that goes west to the Fox River Chain O'Lakes.

Subsurface flow:

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
Wetland 1	Unknown	-	-

(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	1-2	1-2	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 1	-	Road salt.

(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	Large diverse wetland, high quality, usage by deer, raccoon, birds, and insects.

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	Water discharges most of year to the west, fed by groundwater and surface water runoff.

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	-	14204.46456
<b>Total:</b>		<b>0</b>	<b>14204.46456</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)

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Hey and Associates, 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	-	-
---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	-	-
---Other	-	-
--Applicable/supporting case law	-	-
--Other information	-	-

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description

Site visit to walk wetland boundaries and determine flow on 25 Oct 2011.

<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):** 17-Aug-2011

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, LRC-2011-00228-JD1

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

**State :** IL - Illinois  
**County/parish/borough:** McHenry  
**City:** McHenry  
**Lat:** 42.3315  
**Long:** -88.2757  
**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:** Unnamed Trib to Fox  
**Name of nearest Traditional Navigable Water (TNW):** Fox River  
**Name of watershed or Hydrologic Unit Code (HUC):** Upper Fox

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-Jul-2011

Field Determination Date(s): 28-Jul-2011

**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-2011-228 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:

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-2011-228 Wetland A	1	Riparian Wetland	Low quality, FQI 8.6 and C of 2.4	-

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

Flow is:

Wetland Name	Flow	Explain
LRC-2011-228 Wetland A	Perennial flow.	-

Surface flow is:

Wetland Name	Flow	Characteristics
LRC-2011-228 Wetland A	Discrete	-

Subsurface flow:

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
LRC-2011-228 Wetland A	Unknown	-	-

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

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
LRC-2011-228 Wetland A	Yes	-	-	-

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

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
LRC-2011-228 Wetland A	1-2	1-2	Wetland to navigable waters	-

**(ii) Chemical Characteristics:**

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

Wetland Name	Explain	Identify specific pollutants, if known
LRC-2011-228 Wetland A	-	-

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

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
LRC-2011-228 Wetland A	X	-	-	-

**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-2011-228 Wetland A	X	-	-	-	-	-	-	X	-

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

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

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

**C. SIGNIFICANT NEXUS DETERMINATION**

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

Significant Nexus: Not Applicable

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

**1. TNWs and Adjacent Wetlands:**  
Not Applicable.

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

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

**3. Non-RPWs that flow directly or indirectly into TNWs:<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
LRC-2011-228 Wetland A	PERENNIAL	Tributary identified as intermittent on USGS. Looks like it flows continuously or nearly so.

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

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
LRC-2011-228 Wetland A	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	4046.856
<b>Total:</b>		0	4046.856

**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	From Consultant	Delineated wetlands, USGS topo, Hydrologic Atlas, FIRM, County ADID Map

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**  
Not Applicable.

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.  
<sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).  
<sup>3</sup> Supporting documentation is presented in Section III F.  
<sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the mid and 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): 24-Aug-2011

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2011-00293-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois  
 County/parish/borough: Cook  
 City: South Barrington  
 Lat: 42.0986  
 Long: -88.14775  
 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: Poplar Creek  
 Name of nearest Traditional Navigable Water (TNW): Fox River  
 Name of watershed or Hydrologic Unit Code (HUC): Fox River

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 24-Aug-2011  
 Field Determination Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

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

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

1. Waters of the U.S.

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

Water Name	Water Type(s) Present
LRC-2011-293 Site 1	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
LRC-2011-293 Site 4	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
LRC-2011-293 Site 5	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
LRC-2011-293 Site 7	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
LRC-2011-293 Site 8	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

1. 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:**

Wetland Name	Size (Acres)	Wetland Type	Wetland Quality	Cross or Serve as State Boundaries. Explain
LRC-2011-293 Site 1	1	Marsh	FQI 13.3, C 3.8 indicates high quality wetland	-
LRC-2011-293 Site 4	1	Marsh	FQI 10, C 2.4 moderate quality. Provides flood control, treatment of surface runoff, sedimentation control	-
LRC-2011-293 Site 5	1	Marsh	FQI 5.4, C 2.4, degraded quality Provides flood control, treatment of surface runoff, sedimentation control	-
LRC-2011-293 Site 7	.1	Wet Meadow	FQI 5.5, C 2.8, degraded quality.	-
LRC-2011-293 Site 8	.1	Wet Meadow	FQI 5.5, C 2.8 degraded	-

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

**Flow is:**  
 Not Applicable.

**Surface flow is:**

Wetland Name	Flow	Characteristics
LRC-2011-293 Site 1	-	Flow under IL-62 to south to wetland 8 and back north under IL-62 further to the east and on to Poplar Creek
LRC-2011-293 Site 4	-	Flows through wetlands to Poplar Creek
LRC-2011-293 Site 5	-	Flows through wetlands to Poplar Creek
LRC-2011-293 Site 7	-	Flows to Poplar Creek
LRC-2011-293 Site 8	-	flows to hickory creek

**Subsurface flow:**

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
LRC-2011-293 Site 1	-	Based on delineation report and GIS maps	-
LRC-2011-293 Site 4	-	-	-
LRC-2011-293 Site 5	-	-	-
LRC-2011-293 Site 7	-	-	-
LRC-2011-293 Site 8	-	-	-

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

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
LRC-2011-293 Site 1	Yes	-	-	-
LRC-2011-293 Site 4	Yes	-	-	-
LRC-2011-293 Site 5	Yes	-	-	-
LRC-2011-293 Site 7	Yes	-	-	-
LRC-2011-293 Site 8	Yes	-	-	-

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

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
LRC-2011-293 Site 1	10-15	5-10	Wetland to navigable waters	-
LRC-2011-293 Site 4	10-15	5-10	-	-
LRC-2011-293 Site 5	10-15	5-10	Wetland to navigable waters	-
LRC-2011-293 Site 7	10-15	5-10	-	-
LRC-2011-293 Site 8	10-15	5-10	-	-

**(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-2011-293 Site 1	-	-
LRC-2011-293 Site 4	-	-
LRC-2011-293 Site 5	-	-
LRC-2011-293 Site 7	-	-
LRC-2011-293 Site 8	-	-

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

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
LRC-2011-293 Site 1	-	-	-	-
LRC-2011-293 Site 4	-	-	-	-
LRC-2011-293 Site 5	-	-	-	-
LRC-2011-293 Site 7	-	-	-	-
LRC-2011-293 Site 8	-	-	-	-

**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-2011-293 Site 1	X	-	-	-	-	-	-	X	Located within Craptree Nature Preserve
LRC-2011-293 Site 4	X	-	-	-	-	-	-	X	wildlife habitat
LRC-2011-293 Site 5	X	-	-	-	-	-	-	X	wildlife habitat
LRC-2011-293 Site 7	X	-	-	-	-	-	-	X	provides habitat diversity
LRC-2011-293 Site 8	X	-	-	-	-	-	-	X	provides habitat

**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
LRC-2011-293 Site 1	PERENNIAL	Water present in aeriels, marsh
LRC-2011-293 Site 4	PERENNIAL	Looks very wet on aeriels

Provide acreage estimates for jurisdictional wetlands in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
LRC-2011-293 Site 1	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	4046.856
LRC-2011-293 Site 4	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	4046.856
LRC-2011-293 Site 5	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	4046.856
LRC-2011-293 Site 7	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	404.6856
LRC-2011-293 Site 8	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	404.6856
<b>Total:</b>		<b>0</b>	<b>12949.9392</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 (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	-	-
--USDA Natural Resources Conservation Service Soil Survey	-	-
--National wetlands inventory map(s)	-	-
--FEMA/FIRM maps	-	-
--Other information	1 foot contours	helped evaluate flow route

**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 end 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):** 04-Oct-2011**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, LRC-2011-00514-JD1**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

**State :** IL - Illinois  
**County/parish/borough:** McHenry  
**City:** Spring Grove  
**Lat:** 42.44336  
**Long:** -88.23429  
**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:** Nippersink Creek  
**Name of nearest Traditional Navigable Water (TNW):** Fox River  
**Name of watershed or Hydrologic Unit Code (HUC):** Fox River

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

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

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

Office Determination Date: 04-Oct-2011

Field Determination Date(s):

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

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

Waters subject to the ebb and flow of the tide.

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

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

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

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

Water Name	Water Type(s) Present
LRC-2011-514 Wetland/WOUS	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:** (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
-	LRC-2011-514 Wetland/WOUS

(b) General Tributary Characteristics:

Tributary is:

Tributary Name	Natural	Artificial	Explain	Manipulated	Explain
LRC-2011-514 Wetland/WOUS	-	-	-	X	May have been a natural flow route. Water has been directed to this location along road for discharge to Nippersink Creek may be manipulated

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

Tributary Name	Width (ft)	Depth (ft)	Side Slopes
LRC-2011-514 Wetland/WOUS	-	-	-

Primary tributary substrate composition:

Tributary Name	Silt	Sands	Concrete	Cobble	Gravel	Muck	Bedrock	Vegetation	Other
LRC-2011-514 Wetland/WOUS	-	-	-	-	-	-	-	-	-

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

Tributary Name	Condition\Stability	Run\Riffle\Pool Complexes	Geometry	Gradient (%)
LRC-2011-514 Wetland/WOUS	-	-	-	-

(c) Flow:

Tributary Name	Provides for	Events Per Year	Flow Regime	Duration & Volume
LRC-2011-514 Wetland/WOUS	-	-	-	-

Surface Flow is:

Tributary Name	Surface Flow	Characteristics
LRC-2011-514 Wetland/WOUS	Discrete and confined	Confined channel that transitions into wetlands abutting Nippersink Creek

Subsurface Flow:

Tributary Name	Subsurface Flow	Explain Findings	Dye (or other) Test
LRC-2011-514 Wetland/WOUS	-	-	-

Tributary has:

Tributary Name	Bed & Banks	OHWM	Discontinuous OHWM <sup>7</sup>	Explain
LRC-2011-514 Wetland/WOUS	-	-	-	-

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-2011-514 Wetland/WOUS	-	-

(iv) Biological Characteristics. Channel supports:

Tributary Name	Riparian Corridor	Characteristics	Wetland Fringe	Characteristics	Habitat
LRC-2011-514 Wetland/WOUS	X	-	-	-	X

Habitat for: (as indicated above)

Tributary Name	Habitat	Federally Listed Species	Explain Findings	Fish/Spawn Areas	Explain Findings	Other Environmentally Sensitive Species	Explain Findings	Aquatic/Wildlife Diversity	Explain Findings
LRC-2011-514 Wetland/WOUS	X	-	-	-	-	-	-	X	adjacent to Nippersink C and High Ha ADID wetlan

**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 an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Significant Nexus: Not Applicable

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

**1. TNWs and Adjacent Wetlands:**  
Not Applicable.

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

Wetland Name	Flow	Explain
LRC-2011-514 Wetland/WOUS	PERENNIAL	Water flowing at time during delineation

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

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
LRC-2011-514 Wetland/WOUS	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs	-	1011.714
<b>Total:</b>		<b>0</b>	<b>1011.714</b>

**3. Non-RPWs that flow directly or indirectly into TNWs:<sup>5</sup>**  
Not Applicable.

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

Not Applicable.

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

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

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

Not Applicable.

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

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

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

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

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

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

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

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

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

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

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

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

Other (Explain):

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

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

**SECTION IV: DATA SOURCES.**

**A. SUPPORTING DATA. Data reviewed for JD**

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

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Delineation Report	USGS Topo Map McHenry ADID Map Wetland Delineation Data Sheets

**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 and 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 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> -bid

<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):** 21-Nov-2011**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, LRC-2011-00526-JD1**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

**State :** IL - Illinois  
**County/parish/borough:** DuPage  
**City:** Lombard  
**Lat:** 41.88316  
**Long:** -88.03619  
**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:****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: 21-Nov-2011

Field Determination Date(s): 15-Sep-2011

**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-2011-526 W1	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
LRC-2011-526 W2	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
LRC-2011-526 W4	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
LRC-2011-526 W5	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
LRC-2011-526 W3	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
LRC-2011-526 W1	.02	Emergent	Low quality FQI - 8.1	-
LRC-2011-526 W2	.01	Emergent wetland	This is a low quality wetland with an 8.1 FQI	-
LRC-2011-526 W4	.02	Emergent	Low quality - FQI 9.0	-
LRC-2011-526 W5	.04	Emergent wetland with season flow	Low quality - FQI 8.5	-
LRC-2011-526 W3	.01	Emergent wetland	Low quality - FQI 8.1	-

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

**Flow is:**

Wetland Name	Flow	Explain
LRC-2011-526 W5	Ephemeral flow.	-

**Surface flow is:**

Wetland Name	Flow	Characteristics
LRC-2011-526 W1	-	-
LRC-2011-526 W2	-	-
LRC-2011-526 W4	-	-
LRC-2011-526	Discrete and	This small tributary takes stormwater from Hill Avenue and drains to East Branch of the DuPage

W5	confined	River
LRC-2011-526 W3	-	-

**Subsurface flow:**

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
LRC-2011-526 W1	-	-	-
LRC-2011-526 W2	-	-	-
LRC-2011-526 W4	-	-	-
LRC-2011-526 W5	Unknown	-	-
LRC-2011-526 W3	-	-	-

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

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
LRC-2011-526 W1	Yes	-	-	-
LRC-2011-526 W2	Yes	-	-	-
LRC-2011-526 W4	Yes	-	-	-
LRC-2011-526 W5	No	X	-	-
LRC-2011-526 W3	Yes	-	-	-

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

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
LRC-2011-526 W1	20-25	15-20	Wetland to navigable waters	5 - 10-year
LRC-2011-526 W2	20-25	15-20	Wetland to navigable waters	5 - 10-year
LRC-2011-526 W4	20-25	15-20	Wetland to navigable waters	5 - 10-year
LRC-2011-526 W5	20-25	15-20	Wetland to navigable waters	5 - 10-year
LRC-2011-526 W3	20-25	15-20	Wetland to navigable waters	5 - 10-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-2011-526 W1	-	N/A
LRC-2011-526 W2	-	N/A
LRC-2011-526 W4	-	-
LRC-2011-526 W5	-	-
LRC-2011-526 W3	-	N/A

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

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
LRC-2011-526 W1	X	-	X	Emergent 75%
LRC-2011-526 W2	X	-	X	75%
LRC-2011-526 W4	X	-	X	70%
LRC-2011-526 W5	X	-	X	85%
LRC-2011-526 W3	X	-	X	70% low quality emergent

**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
LRC-2011-526 W1	PERENNIAL	This is a perennial emergent wetland along the banks of the East Branch of the DuPage River
LRC-2011-526 W2	PERENNIAL	This is a perennial emergent wetland
LRC-2011-526 W5	SEASONAL	This is a small tributary draining to the East Branch of the DuPage River
LRC-2011-526 W3	PERENNIAL	-

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

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
LRC-2011-526 W1	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	80.93712
LRC-2011-526 W2	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	40.46856
LRC-2011-526 W4	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	80.93712
LRC-2011-526 W5	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	161.87424
LRC-2011-526 W3	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	40.46856
<b>Total:</b>		<b>0</b>	<b>404.6856</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):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	plat of survey	-
--Data sheets prepared/submitted by or on behalf of the applicant/consultant	wetland delineation data sheets	-
--U.S. Geological Survey Hydrologic Atlas	usgs map	-
--USDA Natural Resources Conservation Service Soil Survey.	soil map	-
--National wetlands inventory map(s).	NWI	-
--FEMA/FIRM maps	FEMA map	-
--Photographs	-	-
---Other	site photographs	-
--Other information	DuPage wetland map	-

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**  
Not Applicable.

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

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

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

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

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

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

<sup>7</sup>-Ibid.

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

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

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

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

JD Status: DRAFT

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 01-Nov-2011

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, LRC-2011-00673-JD1

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

**State :** IL - Illinois  
**County/parish/borough:** DuPage  
**City:** Glen Ellyn  
**Lat:** 41.84493  
**Long:** -88.06245  
**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: 03-Nov-2011
- Field Determination Date(s): 01-Nov-2011

**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
Glen Crest Creek	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs
Wetland A-2	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Wetland A-3	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
2	Glen Crest Creek

**(b) General Tributary Characteristics:**

Tributary is:

Tributary Name	Natural	Artificial	Explain	Manipulated	Explain
Glen Crest Creek	X	-	-	-	-

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

Tributary Name	Width (ft)	Depth (ft)	Side Slopes

Glen Crest Creek	12	1	2:1
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**Primary tributary substrate composition:**

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

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

Tributary Name	Condition\Stability	Run\Riffle\Pool Complexes	Geometry	Gradient (%)
Glen Crest Creek	Fairly stable, with some bank erosion.	Present throughout due to several beaver dams and some concrete spillways.	Meandering	2

**(c) Flow:**

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

**Surface Flow is:**

Tributary Name	Surface Flow	Characteristics
Glen Crest Creek	Discrete and confined	Defined bed and banks.

**Subsurface Flow:**

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

**Tributary has:**

Tributary Name	Bed & Banks	OHWL	Discontinuous OHWL?	Explain
Glen Crest Creek	X	-	-	-

If factors other than the OHWL 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
Glen Crest Creek	Water color is slightly discolored, but otherwise fairly clear.	Lawn chemicals and silt.

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

Tributary Name	Riparian Corridor	Characteristics	Wetland Fringe	Characteristics	Habitat
Glen Crest Creek	X	Forested with wetland fringe throughout the preserve, over 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-2	.48	Emergent inside of forested canopy.	Low	-
Wetland A-3	.69	Emergent.	Low	-

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

Flow is:

Wetland Name	Flow	Explain
Wetland A-2	Perennial flow.	-
Wetland A-3	Perennial flow.	-

**Surface flow is:**

Wetland Name	Flow	Characteristics
Wetland A-2	Overland sheetflow	Wetlands get water from surrounding landscape and also serve as backwater areas during creek flooding.
Wetland A-3	Overland sheetflow	Wetlands get water from surrounding landscape and also serve as backwater areas during creek flooding.

**Subsurface flow:**

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
Wetland A-2	Unknown	-	-
Wetland A-3	Unknown	-	-

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

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
Wetland A-2	Yes	-	-	-
Wetland A-3	Yes	-	-	-

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

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
Wetland A-2	30 (or more)	30 (or more)	Wetland to navigable waters	50 - 100-year
Wetland A-3	30 (or more)	30 (or more)	Wetland to navigable waters	50 - 100-year

**(ii) Chemical Characteristics:**

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

Wetland Name	Explain	Identify specific pollutants, if known
Wetland A-2	-	Lawn fertilizers and silt.
Wetland A-3	-	Lawn fertilizers and silt.

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

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
Wetland A-2	X	Emergent wetland and then forested floodplain over 100' wide.	-	-
Wetland A-3	X	Emergent wetland along creek, leading into forested floodplain 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
Glen Crest 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> )
Glen Crest Creek	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs	-	930.77688
<b>Total:</b>		<b>0</b>	<b>930.77688</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-2	PERENNIAL	Creek flows year-round; wetland abuts directly.
Wetland A-3	PERENNIAL	Creek flows year round.

Provide acreage estimates for jurisdictional wetlands in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
Wetland A-2	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	1942.49088
Wetland A-3	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	2792.33064
<b>Total:</b>		<b>0</b>	<b>4734.82152</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):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Bollinger, Lach & Assoc., Inc.	September 20, 2011 Wetland Delineation and Assessment Report.
--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	-	-
---USGS 8 and 12 digit HUC maps	-	-
--U.S. Geological Survey map(s).	-	-
--USDA Natural Resources Conservation Service Soil Survey.	-	-
--National wetlands inventory map(s).	-	-
--FEMA/FIRM maps	-	-
--Photographs	-	-
---Aerial	-	-
---Other	-	-
--Applicable/supporting case law	-	-
--Other information	-	-

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

Description
Joint site visit with Ed Lebbos to verify wetland boundary and jurisdiction.

<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.