

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): 17-Oct-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00575-JD2

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
County/parish/borough: Kane
City: Montgomery
Lat: 41.73784650065876
Long: -88.38995349819552
Universal Transverse Mercator
Folder UTM List
UTM list determined by folder location
 ▶ NAD83 / UTM zone 37S
Waters UTM List
UTM list determined by waters location
 ▶ NAD83 / UTM zone 37S
 ▶ NAD83 / UTM zone 38S
Name of nearest waterbody: Blackberry Creek
Name of nearest Traditional Navigable Water (TNW): Fox River
Name of watershed or Hydrologic Unit Code (HUC): 07120007

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

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 12-Dec-2008

Field Determination Date(s): 31-Oct-2008

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

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

Waters subject to the ebb and flow of the tide.

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

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

1. Waters of the U.S.

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

Water Name	Water Type(s) Present
LRC-2008-575 FWL1	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-575 FWL2	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-575 FWL3	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-575 FWL4	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-575 FWL5	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-575 FWL6	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2008-575 WL3	Isolated (interstate or intrastate) waters, including isolated wetlands

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

Area: (m²)

Linear: (m)

c. Limits (boundaries) of jurisdiction:based on:

OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:³

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:
 Farmed wetland 1-5 are all isolated landscape depressions with no surface water connection to any flowing water of the U.S. Wetland 3 is connected to a wetland across the road to the north, which is isolated.

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

Not Applicable.

2. Wetland Adjacent to TNW

Not Applicable.

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

Average annual rainfall: inches

Average annual snowfall: inches

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

Tributary flows directly into TNW.

Tributary flows through tributaries before entering TNW.

:Number of tributaries

Project waters are river miles from TNW.Project waters are river miles from RPW.

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

Project waters cross or serve as state boundaries.

Explain:

Identify flow route to TNW:⁵

Tributary Stream Order, if known:
Not Applicable

(b) General Tributary Characteristics:
Tributary is:
Not Applicable.

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

Primary tributary substrate composition:
Not Applicable.

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

(c) Flow:
Not Applicable.

Surface Flow is:
Not Applicable.

Subsurface Flow:
Not Applicable.

Tributary has:
Not Applicable.

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

High Tide Line indicated by:
Not Applicable.

Mean High Water Mark indicated by:
Not Applicable.

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

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

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:
Properties:
Not Applicable.

(b) General Flow Relationship with Non-TNW:

Flow is:
Not Applicable.

Surface flow is:
Not Applicable.

Subsurface flow:
Not Applicable.

(c) Wetland Adjacency Determination with Non-TNW:

Not Applicable.

(d) Proximity (Relationship) to TNW:

Not Applicable.

(ii) Chemical Characteristics:

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

(iii) Biological Characteristics. Wetland supports:

Not Applicable.

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

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

Summarize overall biological, chemical and physical functions being performed:

Not Applicable.

C. SIGNIFICANT NEXUS DETERMINATION

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

Significant Nexus: Not Applicable

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

Not Applicable.

2. RPWs that flow directly or indirectly into TNWs:

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

3. Non-RPWs that flow directly or indirectly into TNWs:⁸

Not Applicable.

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

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

Waters Name	Interstate/Foreign Travelers	Fish/Shellfish Commerce	Industrial Commerce	Interstate Isolated	Explain	Other Factors	Explain
LRC-2008-575 FWL1	-	-	-	-	-	-	-
LRC-2008-575 FWL2	-	-	-	-	-	-	-
LRC-2008-575 FWL3	-	-	-	-	-	-	-
LRC-2008-575 FWL4	-	-	-	-	-	-	-
LRC-2008-575 FWL5	-	-	-	-	-	-	-
LRC-2008-575 FWL6	-	-	-	-	-	-	-

LRC-2008-575 WL3	-	-	-	-	-	-
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Identify water body and summarize rationale supporting determination:

Water Name	Adjacent To TNW Rationale	TNW Rationale
LRC-2008-575 FWL1	-	-
LRC-2008-575 FWL2	-	-
LRC-2008-575 FWL3	-	-
LRC-2008-575 FWL4	-	-
LRC-2008-575 FWL5	-	-
LRC-2008-575 FWL6	-	-
LRC-2008-575 WL3	-	-

Provide estimates for jurisdictional waters in the review area:

Water Name	Type	Size (Linear) (m)	Size (Area) (m ²)
LRC-2008-575 FWL1	Isolated (interstate or intrastate) waters, including isolated wetlands	-	3601.70184
LRC-2008-575 FWL2	Isolated (interstate or intrastate) waters, including isolated wetlands	-	2185.30224
LRC-2008-575 FWL3	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1416.3996
LRC-2008-575 FWL4	Isolated (interstate or intrastate) waters, including isolated wetlands	-	9267.30024
LRC-2008-575 FWL5	Isolated (interstate or intrastate) waters, including isolated wetlands	-	13961.6532
LRC-2008-575 FWL6	Isolated (interstate or intrastate) waters, including isolated wetlands	-	2347.17648
LRC-2008-575 WL3	Isolated (interstate or intrastate) waters, including isolated wetlands	-	404.6856
Total:		0	33184.2192

F. NON-JURISDICTIONAL WATERS. INCLUDING WETLANDS

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

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

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

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

Other (Explain):

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

Water Name	Type	Size (Linear) (m)	Size (Area) (m ²)
LRC-2008-575 FWL1	Isolated (interstate or intrastate) waters, including isolated wetlands	-	3601.70184
LRC-2008-575 FWL2	Isolated (interstate or intrastate) waters, including isolated wetlands	-	2185.30224
LRC-2008-575 FWL3	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1416.3996
LRC-2008-575 FWL4	Isolated (interstate or intrastate) waters, including isolated wetlands	-	9267.30024
LRC-2008-575 FWL5	Isolated (interstate or intrastate) waters, including isolated wetlands	-	13961.6532
LRC-2008-575 FWL6	Isolated (interstate or intrastate) waters, including isolated wetlands	-	2347.17648
LRC-2008-575 WL3	Isolated (interstate or intrastate) waters, including isolated wetlands	-	404.6856
Total:		0	33184.2192

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	October 15, 2008 Wetland Delineation Report by EnCAP.
--Data sheets prepared/submitted by or on behalf of the applicant/consultant	-	-
---Office concurs with data sheets/delineation report	-	-
--U.S. Geological Survey Hydrologic Atlas	-	-
--U.S. Geological Survey map(s).	-	-
--USDA Natural Resources Conservation Service Soil Survey.	-	-
--National wetlands inventory map(s).	-	-

--State/Local wetland inventory map(s):	-	-
--FEMA/FIRM maps	-	-
--Photographs	-	-
----Aerial	-	-
--Applicable/supporting case law	-	-
--Other information	-	-

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description
The subject wetlands are small topographic depressions with no surface flow.

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

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

JD Status: DRAFT

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 27-Nov-2007

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2007-00808-JD2

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
County/parish/borough: Kane
City: Huntley
Lat: 42.13399420026505
Long: -88.4422115971754
Universal Transverse Mercator
Folder UTM List
UTM list determined by folder location
NAD83 / UTM zone 38S
Waters UTM List
UTM list determined by waters location
NAD83 / UTM zone 38S
Name of nearest waterbody: Eakin Creek
Name of nearest Traditional Navigable Water (TNW): Fox River
Name of watershed or Hydrologic Unit Code (HUC): 07120007

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

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

16-Dec-2008

Office Determination Date:

10-Jul-2008

Field Determination Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

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

Waters subject to the ebb and flow of the tide.

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

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

1. Waters of the U.S.

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

LRC-2007-808 Area 2	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-808 Area 3	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-808 Area 4	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-808 Area 5	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-808 Area 6	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-808 Area 7	Isolated (interstate or intrastate) waters, including isolated wetlands
LRC-2007-808 Area 8	Isolated (interstate or intrastate) waters, including isolated wetlands

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

Area: (m²)

Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on:

OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:³

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: Wetland areas 2-8 were investigated in the field, which had rolling topography. All areas were found to be isolated depressional areas separated from the creek by higher topography. Therefore, these areas have no connection to any flowing water of the U.S. and are non-jurisdictional.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW

Not Applicable.

2. Wetland Adjacent to TNW

Not Applicable.

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

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

(i) General Area Conditions:

Watershed size:

Drainage area:

Average annual rainfall: inches

Average annual snowfall: inches

(ii) Physical Characteristics

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through tributaries before entering TNW.

:Number of tributaries

Project waters are river miles from TNW.

Project waters are river miles from RPW.

Project Waters are aerial (straight) miles from TNW.

Project waters are aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

Explain:

Identify flow route to TNW:⁵

Tributary Stream Order, if known:
Not Applicable.

**(b) General Tributary Characteristics:
Tributary is:**
Not Applicable.

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

Primary tributary substrate composition:
Not Applicable.

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

(c) Flow:
Not Applicable.

Surface Flow is:
Not Applicable.

Subsurface Flow:
Not Applicable.

Tributary has:
Not Applicable.

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

High Tide Line indicated by:
Not Applicable.

Mean High Water Mark indicated by:
Not Applicable.

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

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

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:
Properties:
Not Applicable.

(b) General Flow Relationship with Non-TNW:
Flow is:
Not Applicable.

Surface flow is:
Not Applicable.

Subsurface flow:
Not Applicable.

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

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

(ii) Chemical Characteristics:

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

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

3. Characteristics of all wetlands adjacent to the tributary (if any):
All wetlands being considered in the cumulative analysis:
Not Applicable.

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

C. SIGNIFICANT NEXUS DETERMINATION

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

Significant Nexus: Not Applicable

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

1. TNWs and Adjacent Wetlands:
Not Applicable.

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

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

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

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

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

LRC-2007-808 Area 2	-	-	-	-	-	-	-	-	-
LRC-2007-808 Area 3	-	-	-	-	-	-	-	-	-
LRC-2007-808 Area 4	-	-	-	-	-	-	-	-	-
LRC-2007-808 Area 5	-	-	-	-	-	-	-	-	-
LRC-2007-808 Area 6	-	-	-	-	-	-	-	-	-
LRC-2007-808 Area 7	-	-	-	-	-	-	-	-	-
LRC-2007-808 Area 8	-	-	-	-	-	-	-	-	-

Identify water body and summarize rationale supporting determination:

LRC-2007-808 Area 2	-
LRC-2007-808 Area 3	-
LRC-2007-808 Area 4	-
LRC-2007-808 Area 5	-
LRC-2007-808 Area 6	-
LRC-2007-808 Area 7	-
LRC-2007-808 Area 8	-

Provide estimates for jurisdictional waters in the review area:

LRC-2007-808 Area 2	Isolated (interstate or intrastate) waters, including isolated wetlands	-	9429.17448
LRC-2007-808 Area 3	Isolated (interstate or intrastate) waters, including isolated wetlands	-	2063.89656
LRC-2007-808 Area 4	Isolated (interstate or intrastate) waters, including isolated wetlands	-	728.43408
LRC-2007-808 Area 5	Isolated (interstate or intrastate) waters, including isolated wetlands	-	809.3712
LRC-2007-808 Area 6	Isolated (interstate or intrastate) waters, including isolated wetlands	-	5787.00408
LRC-2007-808 Area 7	Isolated (interstate or intrastate) waters, including isolated wetlands	-	728.43408
LRC-2007-808 Area 8	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1254.52536
Total:		0	20800.83984

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:

LRC-2007-808 Area 2	Isolated (interstate or intrastate) waters, including isolated wetlands	-	9429.17448
LRC-2007-808 Area 3	Isolated (interstate or intrastate) waters, including isolated wetlands	-	2063.89656
LRC-2007-808 Area 4	Isolated (interstate or intrastate) waters, including isolated wetlands	-	728.43408
LRC-2007-808 Area 5	Isolated (interstate or intrastate) waters, including isolated wetlands	-	809.3712
LRC-2007-808 Area 6	Isolated (interstate or intrastate) waters, including isolated wetlands	-	5787.00408
LRC-2007-808 Area 7	Isolated (interstate or intrastate) waters, including isolated wetlands	-	728.43408
LRC-2007-808 Area 8	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1254.52536
Total:		0	20800.83984

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

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD

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

--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Wetland Report	July 14, 2007 Wetland Delineation and Assessment Report by V3
--Data sheets prepared/submitted by or on behalf of the applicant/consultant	-	-
----Office concurs with data sheets/delineation report	-	-
--Corps navigable waters study	-	-
--U.S. Geological Survey Hydrologic Atlas	-	-
--U.S. Geological Survey map(s).	-	-
--USDA Natural Resources Conservation Service Soil Survey.	-	-
--National wetlands inventory map(s).	-	-
--State/Local wetland inventory map(s):	-	-

--FEMA/FIRM maps	-
--Photographs	-
---Aerial	-
--Applicable/supporting case law	-
--Other information	-

B. ADDITIONAL COMMENTS TO SUPPORT JD:

July 10, 2008 site visit by Kim Kubiak to confirm isolated status.
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- 1-Boxes checked below shall be supported by completing the appropriate sections in Section III below.
- 2-For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
- 3-Supporting documentation is presented in Section III.F.
- 4-Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
- 5-Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
- 6-A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
- 7-Ibid.
- 8-See Footnote #3.
- 9 -To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
- 10-Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

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

JD Status: DRAFT

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 14-May-2007

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2007-00388-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
County/parish/borough: Will
City: Lockport
Lat: 41.587
Long: -88.095
Universal Transverse Mercator Folder UTM List

UTM list determined by folder location
Enter LRC-2007-00388 location information to display the UTM list.

Waters UTM List
UTM list determined by waters location
NAD83 / UTM zone 37S

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

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

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

16-Dec-2008

Office Determination Date:

Field Determination Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

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

Waters subject to the ebb and flow of the tide.

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

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

1. Waters of the U.S.

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

FW1	Isolated (interstate or intrastate) waters, including isolated wetlands
FW2	Isolated (interstate or intrastate) waters, including isolated wetlands

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

Area: (m²)

Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on:

OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:³

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

Two small farmed wetlands (0.25 and 0.41 acres) were located on the approximate 237 acre farmed parcel. Both farmed wetlands are small isolated depressions with no surface water connection to any flowing water of the U.S., and therefore are non-jurisdictional.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW
Not Applicable.

2. Wetland Adjacent to TNW
Not Applicable.

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

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

(i) General Area Conditions:

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

(ii) Physical Characteristics

(a) Relationship with TNW:

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

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

Project waters cross or serve as state boundaries.
 Explain:

Identify flow route to TNW.⁵

Tributary Stream Order, if known:
Not Applicable.

**(b) General Tributary Characteristics:
Tributary is:**
Not Applicable.

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

Primary tributary substrate composition:
Not Applicable.

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

(c) Flow:
Not Applicable.

Surface Flow is:
Not Applicable.

Subsurface Flow:
Not Applicable.

Tributary has:
Not Applicable.

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

High Tide Line indicated by:
Not Applicable.

Mean High Water Mark indicated by:

Not Applicable.

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

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

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

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

(b) General Flow Relationship with Non-TNW:
Flow is:
Not Applicable.

Surface flow is:
Not Applicable.

Subsurface flow:
Not Applicable.

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

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

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

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

3. Characteristics of all wetlands adjacent to the tributary (if any):
All wetlands being considered in the cumulative analysis:
 Not Applicable.

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

C. SIGNIFICANT NEXUS DETERMINATION

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

Significant Nexus: Not Applicable

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

1. TNWs and Adjacent Wetlands:
 Not Applicable.

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

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

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

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

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

Water Body Name	County	Acres	Category	Notes
FW1		-		
FW2		-		

Identify water body and summarize rationale supporting determination:

FW1	-	-	
FW2	-	-	

Provide estimates for jurisdictional waters in the review area:

Water Body	County	Acres	Category	Total
FW1		-	Isolated (interstate or intrastate) waters, including isolated wetlands	1011.714
FW2		-	Isolated (interstate or intrastate) waters, including isolated wetlands	1659.21096
Total:		0		2670.92496

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:

FW1	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1011.714
FW2	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1659.21096
Total:		0	2670.92496

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

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD

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

--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Wetland Report	-
--U.S. Geological Survey Hydrologic Atlas		-

--U.S. Geological Survey map(s).	-	-
--USDA Natural Resources Conservation Service Soil Survey.	-	-
--National wetlands inventory map(s).	-	-
--FEMA/FIRM maps	-	-
--Photographs	-	-
---Aerial	-	-
--Applicable/supporting case law	-	-
--Other information	-	-

B. ADDITIONAL COMMENTS TO SUPPORT JD:

April 2, 2007 Farmed Wetland Report by Hey & Associates.

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

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

JD Status: DRAFT

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 07 Mar-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00144-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
 County/parish/borough: DuPage
 City: Oak Brook
 Lat: 41.829601998853896
 Long: -87.99479600000001
 Universal Transverse Mercator
Folder UTM List
UTM list determined by folder location
 NAD83 / UTM zone 37S
Waters UTM List
UTM list determined by waters location
 NAD83 / UTM zone 37S
 Name of nearest waterbody: Heritage Oaks Tributary
 Name of nearest Traditional Navigable Water (TNW): Des Plaines River
 Name of watershed or Hydrologic Unit Code (HUC): 07120004

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

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

24-Dec-2008

Office Determination Date:

Field Determination Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

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

Waters subject to the ebb and flow of the tide.

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

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

1. Waters of the U.S.

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

Pond	Isolated (interstate or intrastate) waters, including isolated wetlands
------	---

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

Area: .28 (m²)

Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on: 1987 Delineation Manual.

OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:³

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:
 The pond (0.53 acre) is a small isolated depressional feature with a 5 acre drainage area. The small pond does not have an outlet or drainage feature connecting it to any flowing water of the U.S. Therefore the subject pond is isolated and non-jurisdictional.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW
Not Applicable.

2. Wetland Adjacent to TNW
Not Applicable.

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

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

(i) General Area Conditions:

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

(ii) Physical Characteristics

(a) Relationship with TNW:

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

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

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

Tributary Stream Order, if known:
Not Applicable.

(b) General Tributary Characteristics:

Tributary is:

Not Applicable.

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

Not Applicable.

Primary tributary substrate composition:

Not Applicable.

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

Not Applicable.

(c) Flow:

Not Applicable.

Surface Flow is:

Not Applicable.

Subsurface Flow:

Not Applicable.

Tributary has:

Not Applicable.

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

High Tide Line indicated by:

Not Applicable.

Mean High Water Mark indicated by:

Not Applicable.

(iii) Chemical Characteristics:

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

Not Applicable.

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

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:
Properties:
Not Applicable.

(b) General Flow Relationship with Non-TNW:

Flow is:
Not Applicable.

Surface flow is:
Not Applicable.

Subsurface flow:
Not Applicable.

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

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

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

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

3. Characteristics of all wetlands adjacent to the tributary (if any):
All wetlands being considered in the cumulative analysis:
Not Applicable.

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

C. SIGNIFICANT NEXUS DETERMINATION

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

Significant Nexus: Not Applicable

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

1. TNWs and Adjacent Wetlands:
Not Applicable.

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

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

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

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

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

Pond									

Identify water body and summarize rationale supporting determination:

Pond	

Provide estimates for jurisdictional waters in the review area:

Pond	Isolated (interstate or intrastate) waters, including isolated wetlands	1011.714
Total:		1011.714

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:

Category	Acres	Total
Pond	-	1011.714
Total:	0	1011.714

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

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD

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

--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Henderson & Bodwell	-
--U.S. Geological Survey Hydrologic Atlas	-	-
--U.S. Geological Survey map(s).	-	-
--USDA Natural Resources Conservation Service Soil Survey.	-	-
--National wetlands inventory map(s).	-	-
--FEMA/FIRM maps	-	-
--Photographs	-	-
----Aerial	-	-

--Other information

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Plat of survey shows topography and total drainage area as a closed depression.

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

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

JD Status: DRAFT

SECTION F: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 28-Oct-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00589-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
County/parish/borough: Kane
City: Elgin
Lat: 42.034592736231865
Long: -88.33844253737877
Universal Transverse Mercator

Folder UTM List
UTM list determined by folder location

- NAD83 / UTM zone 38S

Waters UTM List
UTM list determined by waters location

- NAD83 / UTM zone 38S

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

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

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 06-Jan-2009

Field Determination Date(s): 02-Jan-2009

1. TNW

Not Applicable.

2. Wetland Adjacent to TNW

Not Applicable.

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

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

(i) General Area Conditions:

Watershed size:

Drainage area:

Average annual rainfall: inches

Average annual snowfall: inches

(ii) Physical Characteristics

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through tributaries before entering TNW.

:Number of tributaries

Project waters are river miles from TNW.

Project waters are river miles from RPW.

Project Waters are aerial (straight) miles from TNW.

Project waters are aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

Explain:

Identify flow route to TNW:5

Tributary Stream Order, if known:

Not Applicable.

(b) General Tributary Characteristics:

Tributary is:

Not Applicable.

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

Primary tributary substrate composition:
Not Applicable.

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

(c) Flow:
Not Applicable.

Surface Flow is:
Not Applicable.

Subsurface Flow:
Not Applicable.

Tributary has:
Not Applicable.

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

High Tide Line indicated by:
Not Applicable.

Mean High Water Mark indicated by:
Not Applicable.

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

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

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:
Properties:
Not Applicable.

(b) General Flow Relationship with Non-TNW:

Flow is:
Not Applicable.

Surface flow is:
Not Applicable.

Subsurface flow:
Not Applicable.

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

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

(ii) Chemical Characteristics:

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

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

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

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

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

C. SIGNIFICANT NEXUS DETERMINATION

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

Significant Nexus: Not Applicable

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

1. TNWs and Adjacent Wetlands:

Not Applicable.

2. RPWs that flow directly or indirectly into TNWs:

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

3. Non-RPWs that flow directly or indirectly into TNWs:⁸

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

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

Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

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

Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

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

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

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

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

Water Name	Interstate Waters	Intra-State Waters	Isolated Waters	Isolated Wetlands	Isolated Wetlands	Isolated Wetlands	Isolated Wetlands	Isolated Wetlands
Wetland 1	-	-	-	-	-	-	-	-
Wetland 2	-	-	-	-	-	-	-	-
Wetland 3	-	-	-	-	-	-	-	-

Identify water body and summarize rationale supporting determination:

Water Name	Adjacent To	TNW Rationale	TNW Rationale
Wetland 1	-	-	-
Wetland 2	-	-	-
Wetland 3	-	-	-

Provide estimates for jurisdictional waters in the review area:

Water Name	Type	Size (Linear) (m)	Size (Area) (m ²)
Wetland 1	Isolated (interstate or intrastate) waters, including isolated wetlands	-	2266.23936
Wetland 2	Isolated (interstate or intrastate) waters, including isolated wetlands	-	161.87424
Wetland 3	Isolated (interstate or intrastate) waters, including isolated wetlands	-	364.21704
Total:		0	2792.33064

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:

Wetland Category	Wetland Type	Size (Acres)	Size (Square Feet)
Wetland 1	Isolated (interstate or intrastate) waters, including isolated wetlands	-	2266.23936
Wetland 2	Isolated (interstate or intrastate) waters, including isolated wetlands	-	161.87424
Wetland 3	Isolated (interstate or intrastate) waters, including isolated wetlands	-	364.21704
Total:		0	2792.33064

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

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD

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

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	-	-
--Data sheets prepared/submitted by or on behalf of the applicant/consultant	-	-
----Office concurs with data sheets/delineation report	-	-
--U.S. Geological Survey Hydrologic Atlas	-	-
--U.S. Geological Survey map(s).	-	-
--USDA Natural Resources Conservation Service Soil Survey.	-	-
--National wetlands inventory map(s).	-	-

- State/Local wetland inventory map(s): -
- Photographs -
- Aerial -
- Other information -

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description

Site visit on 02 Jan 09 confirmed no pipes or other connections to Otter Creek.

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

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

JD Status: DRAFT

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 21-Feb-2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Chicago District, LRC-2008-00096-JD2

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : IL - Illinois
County/parish/borough: Kane
City: Aurora
Lat: 41.800193189136934
Long: -88.2996860657904
Universal Transverse Mercator

Folder UTM List
UTM list determined by folder location

- NAD83 / UTM zone 37S

Waters UTM List

UTM list determined by waters location

- NAD83 / UTM zone 37S

Fox River Tributary

Name of nearest waterbody:

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

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

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

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 06-Jan-2009

Field Determination Date(s): 02-Jan-2009

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

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

Waters subject to the ebb and flow of the tide.

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

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

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

Water Name	Water Type(s) Present
Drainageway 3	Isolated (interstate or intrastate) waters, including isolated wetlands
Drainageway 4	Isolated (interstate or intrastate) waters, including isolated wetlands
Wetland 2	Isolated (interstate or intrastate) waters, including isolated wetlands

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

Area: (m²)

Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on:

OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:³

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

The subject spot wetland was a small isolated pocket. The drainageways were inside vegetated erosion strips, and were a mix of small drainageways and spreading deltas, that would occasionally disappear and then reform, all is steep sloping upland soils, flowing only in storm events. These areas do not constitute waters of the U.S.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW

Not Applicable.

2. Wetland Adjacent to TNW

Not Applicable.

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

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

(i) General Area Conditions:

Watershed size:

Drainage area:

Average annual rainfall: inches

Average annual snowfall: inches

(ii) Physical Characteristics

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through tributaries before entering TNW.

:Number of tributaries

Project waters are river miles from TNW.

Project waters are river miles from RPW.

Project Waters are aerial (straight) miles from TNW.

Project waters are aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

Explain:

Identify flow route to TNW:⁵

Tributary Stream Order, if known:

Not Applicable.

(b) General Tributary Characteristics:

Tributary is:

Not Applicable.

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

Primary tributary substrate composition:
Not Applicable.

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

(c) Flow:
Not Applicable.

Surface Flow is:
Not Applicable.

Subsurface Flow:
Not Applicable.

Tributary has:
Not Applicable.

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

High Tide Line indicated by:
Not Applicable.

Mean High Water Mark indicated by:
Not Applicable.

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

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

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:
Properties:
Not Applicable.

(b) General Flow Relationship with Non-TNW:

Flow is:
Not Applicable.

Surface flow is:
Not Applicable.

Subsurface flow:
Not Applicable.

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

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

(ii) Chemical Characteristics:

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

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

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

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

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

C. SIGNIFICANT NEXUS DETERMINATION

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

Significant Nexus: Not Applicable

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

1. TNWs and Adjacent Wetlands:

Not Applicable.

2. RPWs that flow directly or indirectly into TNWs:

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

3. Non-RPWs that flow directly or indirectly into TNWs:⁸

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

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

Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

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

Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

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

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

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

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

Water Name	Interstate/Foreign Travelers	Fish/Shellfish Commerce	Industrial Commerce	Interstate Commerce	Isolated Wetlands	Isolated Wetlands	Isolated Wetlands	Isolated Wetlands	Isolated Wetlands
Drainageway 3	-	-	-	-	-	-	-	-	-
Drainageway 4	-	-	-	-	-	-	-	-	-
Wetland 2	-	-	-	-	-	-	-	-	-

Identify water body and summarize rationale supporting determination:

Water Name	Adjacent To	TNW Rationale	TNW Rationale
Drainageway 3	-	-	-
Drainageway 4	-	-	-
Wetland 2	-	-	-

Provide estimates for jurisdictional waters in the review area:

Water Name	Type	Size (Linear) (m)	Size (Area) (m ²)
Drainageway 3	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1861.55376
Drainageway 4	Isolated (interstate or intrastate) waters, including isolated wetlands	-	242.81136
Wetland 2	Isolated (interstate or intrastate) waters, including isolated wetlands	-	161.87424
Total:		0	2266.23936

F. NON-JURISDICTIONAL WATERS. INCLUDING WETLANDS

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

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

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

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

Other (Explain):

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

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

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD

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

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

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description

Site visit on 02 Jan 09 confirmed consultants findings.

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