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

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 10 August 2007

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Mobile District, Newline Realty of Lumberton, L.L.C. - BelleTerre Subdivision, SAM-2007-1102-LET

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Mississippi County/parish/borough: Lamar City: Lumberton
Center coordinates of site (lat/long in degree decimal format): Lat. 31.013472° N, Long. -89.475917° W.
Universal Transverse Mercator: Zone 16 X 263603.399073206 Y 3433509.24936652 Datum
Name of nearest waterbody: Unnamed tributary to Red Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Red Creek
Name of watershed or Hydrologic Unit Code (HUC): 03170007

☒ 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 this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: 3 August 2007
☒ Field Determination. Date(s): 2 August 2007

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There Are no "*navigable waters of the U.S.*" within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]

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

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☒ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☒ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      ☒ Impoundments of jurisdictional waters
      ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
      Non-wetland waters: 10 linear feet: 6 to 8 width (ft) and/or 14 acres.
      Wetlands: Approximately 8.24 acres.

   c. **Limits (boundaries) of jurisdiction** based on: **1987 Delineation Manual**
      Elevation of established OHWM (if known): .

2. **Non-regulated waters/wetlands (check if applicable):**[3]
   ☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain: .

[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.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. **TNW**
   Identify TNW: .

   Summarize rationale supporting determination: .

2. **Wetland adjacent to TNW**
   Summarize rationale supporting conclusion that wetland is "adjacent": .

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

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

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

   (i) **General Area Conditions:**
   Watershed size: 811,268.8600 **acres**
   Drainage area: Approximately 550 **acres**
   Average annual rainfall: Approximately 48 inches
   Average annual snowfall: None inches

   (ii) **Physical Characteristics:**
   (a) Relationship with TNW:
   ☒ Tributary flows directly into TNW.
   ☐ Tributary flows through **Pick List** tributaries before entering TNW.

   Project waters are **1-2** river miles from TNW.
   Project waters are **1-2** river miles from RPW.
   Project waters are **1 (or less)** aerial (straight) miles from TNW.
   Project waters are **1 (or less)** aerial (straight) miles from RPW.
   Project waters cross or serve as state boundaries. Explain: Project waters do not cross or serve as State boundaries.

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

Identify flow route to TNW[5]: Multiple small dendritic wetland drainages converge on the 70 acre project site with an impounded RPW unnamed tributary which then flows into Red Creek which converges with Big Black Creek, which flows into the Pascagoula River.

Tributary stream order, if known: The UT beginning on the 70 acre parcel would be a 1st order stream, Red Creek would be a 2nd order stream or greater, Big Black Creek would be 3rd order or greater and the Pascagoula River 4th order or greater.

(b) General Tributary Characteristics (check all that apply):

Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: The headwater segment of the RPW unnamed tributary to Red Creek has been impounded by construction of an earthen dam with overflow pipes located in the tributary channel at a point approximately 0.8 mile upstream of the convergence of the UT into Red Creek. The construction of this dam has resulted in an approximately 14 acre lake that encompasses the lower ends of the dendritic wetland seepage drainages on the project site.

Tributary properties with respect to top of bank (estimate):
Average width: 6 to 8 feet
Average depth: 6 feet
Average side slopes: **2:1.**

Primary tributary substrate composition (check all that apply):

☒ Silts	☒ Sands	☐ Concrete
☐ Cobbles	☐ Gravel	☐ Muck
☐ Bedrock	☐ Vegetation. Type/% cover:	
☐ Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Banks appear relatively stable due to presence of good stabilizing riparian vegetation along most of the tributary length, however there is some minor evidence of stream incision and bank erosion just downstream of the wooden headwall that was constructed to stabilize the downstream side of the impoundment dam where the water level regulating overflow pipes pass through the dam.

Presence of run/riffle/pool complexes. Explain: There was no field investigation of the UT downstream of the impoundment dam to determine or confirm the presence, typical dimension, and expected number of run/riffle/pool complexes per stream meander segment.

Tributary geometry: **Meandering**
Tributary gradient (approximate average slope): Unknown %

(c) Flow:

Tributary provides for: **Seasonal flow**
Estimate average number of flow events in review area/year: **20 (or greater)**

Describe flow regime: Water flows in the tributary continually at least 3 months out of the year if not perenially downstream of the impoundment dam. The impoundment has likely resulted in a reduced volume of downstream flow.

Other information on duration and volume: There is no known recorded data regarding flow duration and volume on the unnamed tributary to Red Creek.

Surface flow is: **Discrete.** Characteristics: The tributary originates from a combination of groundwater driven seepages from surrounding lands and overland sheetflow from rainfall events upstream and downstream of the project impact site and exhibits a defined bed and bank drainage channel.

Subsurface flow: **Yes.** Explain findings: Groundwater moves laterally toward wetland drainages from the slopes and toward the tributary drainage itself, where it seeps out of the ground and becomes surface water flowing downstream to the tributary and within the tributary.

☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☒ Bed and banks
☒ OHWM[6] (check all indicators that apply):

☒ clear, natural line impressed on the bank	☐ the presence of litter and debris
☐ changes in the character of soil	☐ destruction of terrestrial vegetation
☒ shelving	☐ the presence of wrack line
☒ vegetation matted down, bent, or absent	☐ sediment sorting
☐ leaf litter disturbed or washed away	☐ scour
☐ sediment deposition	☐ multiple observed or predicted flow events
☒ water staining	☐ abrupt change in plant community

[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.

☐ other (list):
☐ Discontinuous OHWM.[7] Explain:

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

☒ High Tide Line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other (list):

☒ Mean High Water Mark indicated by:
- ☐ survey to available datum;
- ☐ physical markings;
- ☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

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

Explain: Water appeared to be tannic but clear with no significant turbidity immediately downstream of impoundment dam or in standing water in wetland slope seepage drains upstream of the impoundment.

Identify specific pollutants, if known: No specific pollutants known.

[7] Ibid.

(iv) Biological Characteristics. Channel supports (check all that apply):

☒ Riparian corridor. Characteristics (type, average width): Primarily hardwood forest with some pine mixed in composed of upland and wetland habitats. Riparian corridor appears to have been encroached upon historically in a few areas by agricultural/silvicultural activity and some low-density residential developments.

☐ Wetland fringe. Characteristics: .

☒ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: The tributary and its associated wetlands convey organic carbon and nutrients downstream to the resident aquatic vertebrates and invertebrates spawning and feeding in Red Creek. The wetland seepage drains and RPW tributary also provide a smaller more protected water that may provide a water source for growth, and foraging by juvenile fishes, reptiles, amphibians, and mammals as evidenced by the observation of racoon tracks, deer tracks, and presence of rabbit scat particularly along the wetland drainages above the lake and RPW segment of the tributary.

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: Approximately 8.24 acres

Wetland type. Explain: Predominantly forested hardwood wetland with dominant wetland vegetation including Magnolia virginiana, Nyssa biflora, Acer rubrum, and Woodwardia aerolata. Several Salix nigra present along tributary banks immediately downstream of impoundment dam. There are a few areas along the lower gradient segments of the wetland drainages that have vegetative composition more characteristic of wet pine savannah/pine forest including, Pinus taeda, Sarracenia sp. Ilex glabra, Ilex coriacea, Rhexia sp., Xyris sp. ect.

Wetland quality. Explain: Wetland quality in the assessment area along the along RPW tributary, the lake, and its wetaland seepage drainages is primarily medium quality. There is good coverage of expected native vegetation however vegetation age and compostition (e.g. more dense shrub or mid-story vegetation than expected in an older growth hardwood areas) have been affected by past silviculture activities in some areas. Ligustrum sinense appears to be the most prevalent exotic or nuisance species affecting the vegetative composition of wetlands along the tributary.

Project wetlands cross or serve as state boundaries. Explain: Project wetlands do not cross or serve as State boundaries.

(b) General Flow Relationship with Non-TNW:

Flow is: **Ephemeral flow**. Explain: Water flow from the seepage wetland drains on the project site is in response to rainfall events in combination with saturation of the soils based on groundwater elevation and availability of groundwater recharge.

Surface flow is: **Discrete**

Characteristics: Slope seepage wetlands drain to the approximately 14 acre impoundment at the headwaters of the RPW to Red Creek.

Subsurface flow: **Yes**. Explain findings: Groundwater moves laterally toward wetland drainages in slopes and toward the tributary drainage itself. In the wetland slope drainages water may seasonally seep out of the ground when groundwater and rainfall conditions are adequate and contribute a small amount of surface water flow into the tributary impoundment.

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

☒ Directly abutting

☐ Not directly abutting

☐ Discrete wetland hydrologic connection. Explain: .

☐ Ecological connection. Explain: .

☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **1-2** river miles from TNW.

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

Flow is from: **Wetland to navigable waters.**

Estimate approximate location of wetland as within the **500-year or greater** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: At the time of field inspection there was a very small volume of seepage water flowing down the lowest point of the dendritic slope wetland drainages in areas that have been cleared for road crossings on the project site. The water was running clear through the small swale areas.

Identify specific pollutants, if known: No specific pollutants known.

(iii) Biological Characteristics. Wetland supports (check all that apply):

☒ Riparian buffer. Characteristics (type, average width): Predominantly forested hardwood wetlands with a few areas along the lower gradient segments of the slope wetland drainages on the project site that have vegetative composition more characteristic of wet pine savannah/pine forest. These wetlands provide buffer between the lake and RPW waters and the undeveloped and developed uplands, in the drainage area.

☒ Vegetation type/percent cover. Explain: Wetland vegetation includes Magnolia virginiana, Nyssa biflora, Acer rubrum, Woodwardia aerolata, Smilax sp., Rubus sp., Salix nigra, Pinus taeda, Sarracenia sp. Ilex glabra, Ilex coriacea, Rhexia sp., and Xyris sp. no percent cover estimates were made during field inspection of this site.

☒ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: The wetlands provide resting, nesting, refuge, and foraging habitat for small amphibians, reptiles, birds, and mammals as evidenced by observation of racoon tracks, deer tracks, birds heard rustling tree branches, presence of rabbit scat particularly along the dendritic wetland drainages above the lake and RPW segment of the tributary, and frogs heard chirping around the lake and at the convergences of the wetland drainages into the lake.

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

All wetland(s) being considered in the cumulative analysis: 2

Approximately (87) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
Y	23		
Y	64		

Summarize overall biological, chemical and physical functions being performed: The approximately 23 acre wetland area includes all wetland slope seepage drainages on the propsed project site and the approximately 14 acre existing impoundment of waters of the U.S. above the earthen dam across the RPW tributary to Red Creek. The remaining 64 acre wetland area includes the estimated 64 acres of wetlands adjacent to the RPW tributary to Red Creek downstream of the earthen dam. These wetland areas consist predominantly of forested hardwood wetlands with a few areas along the lower gradient portions of the wetland slope seepage drainages that have vegetative composition more characteristic of wet pine savannah/pine forest. This wetland and waters system provides a water source/water recharge to the tributary, retention of floodwater , and initial treatment and removal of pollutants and sediment from the run-off from agriculture/silviculture and low density residential activities prior to entering the tributary and downstream waterbodies such as Red Creek. Detritus and decomposition of organic matter from the wetlands also provide nutrients and organic carbon to the tributary for use by wildlife and fish in downstream food chains. These areas also provide natural lands adjacent to a consistent water sources where wildlife may rest, forage, nest, or seek refuge from predators.

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.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: Not applicable.

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: Not applicable.

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: Not applicable.

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
   - ☒ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: The UT to Red Creek is depicted on the Lumberton MS 1:24,000 USGS Topographic Quadrangle Map as a broken blue line or intermittent/seasonal waterbody over the length of the UT to its convergence with Red Creek of which 15 miles is found on the Mobile District Corps of Engineers list of Section 10 waters in Mississippi and therefore considered a TNW. The tributary is also consistently shown as a defined, identifiable waterbody in USDA-NRCS soil survey maps The tributary channel contained water downstream of the impoundment dam, althought due to the size of the impoundment and nature of the pool volume regulating structures, flow downstream of the impoundment has likely been reduced in volume since its construction. This observation of water in the tributary downstream of the impoundment at the time of inspection, althought the Southeastern United States has been experiencing below normal rainfall conditions for at least the past 5 years and extreme drought conditions/rainfall deficits in 2007, appear to indicate the tributary flows continually at least 3 months out of the year if not perenially downstream of the impoundment dam.

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☒ Tributary waters: **10** linear feet **6 to 8** width (ft).
   - ☒ Other non-wetland waters: **14** acres.
     Identify type(s) of waters: **Approximately 14 acre lake that was historically created on a portion of the headwater segment of the RPW unnamed tributary to Red Creek by constructing an earthen dam across the tributary. See item 7 below.**

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
   - ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   - ☐ Tributary waters: linear feet width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters: .

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☒ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
   - ☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .
   - ☒ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: These are riparian wetlands associated with the unnamed seasonal tributary which is depicted on the Lumberton MS USGS Topographic Quadrangle Map as being a broken blue line or intermittent/seasonally flowing waterbody over its length to its convergence with Red Creek. The wetlands along this tributary do not generally appear to be separated from the tributary by upland depositional stream levees or manmade levees.

   Provide acreage estimates for jurisdictional wetlands in the review area: **Approximately 8.24** acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**
   - ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

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[8]See Footnote # 3.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. **Impoundments of jurisdictional waters.**[9]
As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
☒ Demonstrate that impoundment was created from "waters of the U.S.," or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

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 (CHECK ALL THAT APPLY):[10]
☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .
☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):
☐ 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, if not covered above): .

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 (check all that apply):
☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

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 (check all that apply):
☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):
☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.

[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.***

☒ Office concurs with data sheets/delineation report.
☐ Office does not concur with data sheets/delineation report.
☐ Data sheets prepared by the Corps: .
☐ Corps navigable waters' study: .
☒ U.S. Geological Survey Hydrologic Atlas: .
☐ USGS NHD data.
☒ USGS 8 and 12 digit HUC maps.
☒ U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000 Lumberton, MS .
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: National Cooperative Soil Survey, Web Soil Survey 2.0 Lamar County, Mississippi.
☐ National wetlands inventory map(s). Cite name: .
☐ State/Local wetland inventory map(s): .
☒ FEMA/FIRM maps:Lamar County, Mississippi and incorporated areas Panel 135 of 155 Map Number 28073C0135 C, Effective April 2, 1990 .
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☐ Aerial (Name & Date): .
or ☒ Other (Name & Date): Digital photos taken by project manager during site inspection 2 August 2007.
☐ Previous determination(s). File no. and date of response letter: .
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☒ Other information (please specify):Phase I Total Maximun Daily Load for Biological Impairment dute to Organic Enrichment/Low Dissolved Oxygen and Nutrients in Red Creek Pascagoula River Basin Lamar and Pearl River Counties, Mississippi - prepared by MDEQ Office of Pollution Control, TMDL/WLA Branch.

B. ADDITIONAL COMMENTS TO SUPPORT JD: .