

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): 14 November 2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Mobile District CESAM-RD-I, Dr. Jeff Malone - medical office, SAM-2008-0961-HWL

C. PROJECT LOCATION AND BACKGROUND INFORMATION: PERMIT IMPACT SITE

State: Alabama County/parish/borough: Jefferson City: Hoover
Center coordinates of site (lat/long in degree decimal format): Lat. 33.350392° N, Long. -86.845469° W.
Universal Transverse Mercator: Zone 16 X: 514378.3192 Y: 3690143.1878

Name of nearest waterbody: Unnamed Tributary to Cahaba River

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Cahaba River

Name of watershed or Hydrologic Unit Code (HUC): 03150202

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: 24 October 2008

Field Determination. Date(s): 17 September 2008

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 waters² (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: 402 linear feet; approximately 4 width (ft) and/or acres.

Wetlands: 0.02 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 waterbody⁴ 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: 670,133.7 acres

Drainage area: 265 acres

Average annual rainfall: Approximately 57 inches

Average annual snowfall: 0 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through 2 tributaries before entering TNW.

Project waters are 1-2 river miles from TNW.

Project waters are 1 (or less) river miles from RPW.

Project waters are 1 (or less) aerial (straight) miles from TNW.

Project waters are 1 (or less) aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain: 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 TNW⁵: The unnamed tributary flows directly into another unnamed tributary which flows into the Cahaba River which is identified as a Section 10 Water (TNW) up to the Shelby County Road 29 Bridge (Caldwell Mill Road) near Acton which is northeast of the review area.

Tributary stream order, if known:

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

Tributary is: Natural
 Artificial (man-made). Explain:
 Manipulated (man-altered). Explain: The tributary has experienced human alteration within the

project review area as well as upstream and downstream of the review area. Segments of the tributary within the review area and outside the review area have historically been relocated, channelized, piped, and culverted to accommodate commercial, residential, and roadway development in and around the stream channel. The actual flowing channel within the relocated segments is narrow and shallow but is located in the bottom of relatively deep constructed channels with steep often almost vertical slopes of 2:1 or less. In contrast, the remaining segment of natural channel is narrow and shallow and has little vertical slope (4:1 or greater) immediately abutting the channel.

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

Average width: 4 feet
Average depth: 3 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: The tributary is relatively stable on the proposed project site where it flows roughly parallel to Stadium Trace Parkway and as it is leaving the site parallel to Magnolia Trace, however a previously relocated segment along the north end of the project site appears to be more unstable and erosive than other segments, likely from velocity of run-off water from upstream developed, impervious surfaces.

Presence of run/riffle/pool complexes. Explain: No combined run/riffle/pool complexes were observed on the proposed project site. The entire reach within the project site appeared to be a very shallow, narrow, seasonally flowing run.

Tributary geometry: Relatively straight

Tributary gradient (approximate average slope): Unknown %

(c) Flow:

Tributary provides for: Seasonal flow

Estimate average number of flow events in review area/year: ~~1120~~

Describe flow regime: The tributary to Cahaba River appears to be a seasonally flowing stream segment, which would have flow approximately 3 months of the year but may not flow year around. The tributary contained water and minimal flow on the day of field review.

Other information on duration and volume: No other tributary specific information, such as USGS gage data, on flow and volume is available.

Surface flow is: Confined. Characteristics: The tributary to Cahaba River exhibits a defined channel with bed and bank characteristics.

Subsurface flow: Pick List. Explain findings: Subsurface flow was not evaluated.

Dye (or other) test performed:

Tributary has (check all that apply):

Bed and banks
 OHWM⁶ (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
 other (list):

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.

Discontinuous OHWM.⁷ Explain:

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

- | | |
|--|--|
| <input type="checkbox"/> High Tide Line indicated by: | <input type="checkbox"/> Mean High Water Mark indicated by: |
| <input type="checkbox"/> oil or scum line along shore objects | <input type="checkbox"/> survey to available datum; |
| <input type="checkbox"/> fine shell or debris deposits (foreshore) | <input type="checkbox"/> physical markings; |
| <input type="checkbox"/> physical markings/characteristics | <input type="checkbox"/> vegetation lines/changes in vegetation types. |
| <input type="checkbox"/> tidal gauges | |
| <input type="checkbox"/> other (list): | |

(iii) Chemical Characteristics:

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

Explain: The small amount of water in the channel was clear with no discoloration during 17 September 2008 USACE project manager field review, however the surrounding area is very developed with paved roads, paved parking lots, residential and commercial buildings and other impervious surfaces that potentially generate and conduct chemical, petroleum, pathogen, and other particulate discharges to downstream waters.

Identify specific pollutants, if known: The State of Alabama has classified the Cahaba River's water uses as an Outstanding Alabama Water, Swimming, Public Water Supply, and Fish & Wildlife. Most of the Cahaba River in Jefferson and adjacent Shelby Counties is on the State of Alabama 303(d) list due to nutrient load, siltation, pathogens, and habitat alterations resulting from land development, urban runoff/storm sewers, and municipal facility and development discharges.

⁷Ibid.

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

Riparian corridor. Characteristics (type, average width): The riparian corridor of the tributary to Cahaba River appears to consist of both wetland and upland land areas but is dominated by uplands. The land uses are dominated by some remaining undeveloped natural areas interspersed among moderately dense suburban residential development, road front commercial/retail development, and a municipal recreation/stadium/ballfield complex development. There appears to be little naturally vegetated riparian corridor with canopy cover within the relevant reach. Other than the 402 linear feet on the proposed development site, there appears to be a small segment of tributary (about 300 linear feet having a naturally vegetated corridor with canopy that is approximately 157 feet in total width (approximately 78 feet each side of the tributary).

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 conveys organic carbon and nutrients from decaying riparian plant material and woody debris downstream to the resident amphibians and aquatic invertebrates, and aquatic and terrestrial vertebrates that may spawn, forage, seek shelter from predators, and/or reside permanently in the stream and adjacent riparian lands.

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: 0.02 acres

Wetland type. Explain: A small pocket of shrub and hardwood dominated wetland abutting the unnamed tributary.

Wetland quality. Explain: Wetland area is low quality, there is limited vegetative diversity and apparent history of disturbance (there is a lot of vine growth e.g. Smilax, Vitis, & Rubus, there are some scattered mature canopy trees on the site but much is immature or shrub stage and mature trees on the site are relatively young - not large dbh old growth), the site on which the wetland is located is surrounded by commercial and residential development on all sides, much of the tributary to which the wetland is abutting has historically been relocated to facilitate development.

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

(b) General Flow Relationship with Non-TNW:

Flow is: Ephemeral flow. Explain: Flow from wetlands to the tributary is predominantly a result of overland sheetflow or high channel flow in response to a precipitation event.

Surface flow is: Overland sheetflow

Characteristics: Rainfall runoff and high water flows sufficient for water to get out of the channel and access its floodplain area (during rainfall events run-off water flows over the landscape toward and through the wetlands then back into the tributary).

Subsurface flow: Pick List. Explain findings: Subsurface flow was not evaluated.

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 (or less) 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: There was no standing water in the review area wetlands at the time of field review.

Identify specific pollutants, if known: No known identified pollutants to the wetland area.

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

Riparian buffer. Characteristics (type, average width): The small area of riparian buffer wetland identified in the review area consists of shrub, herbaceous, and forested wetland land tree species. The riparian buffer is otherwise dominated by upland lands. The width of naturally vegetated riparian buffer along the tributary on the project site is approximately 200 feet and less in total width

with about 45 feet of buffer between Stadium Trace Parkway and the tributary and the remainder of the undeveloped lot providing about 150 feet of buffer between the tributary and residential development.

Vegetation type/percent cover. Explain: Dominant vegetation noted by Gallet and Associates on wetland data forms includes *Juncus* sp., *Liquidambar styraciflua*, *Salix nigra* and *Ligustrum sinense*. Additional scattered species noted by USACE project manager include *Chasmanthium laxum*, *Alnus serrulata*, *Lobelia cardinalis*, *Commelina communis*, *Polystichum acrostichoides*, *Acer rubrum*.

Habitat for:

Federally Listed species. Explain findings:

Fish/spawn areas. Explain findings:

Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. Explain findings: The wetland area is so small and located within such a developed suburban area that the wetland alone provides little aquatic or wildlife support, however when the entire undeveloped lot is considered, the area does potentially provide some habitat for wildlife to rest and seek refuge from predators.

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

All wetland(s) being considered in the cumulative analysis: 1

Approximately (1.0) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
Y	1.0		

Summarize overall biological, chemical and physical functions being performed: The estimated 1.0 acres of similarly situated wetlands being considered in the cumulative analysis is within the riparian corridor along the entire reach (from headwater of the unnamed tributary to Cahaba River to convergence with the Cahaba River including the 0.02 acre of wetlands within this project review area) of the Unnamed Tributary to Cahaba River that flows through the review area. This small amount of wetland provides some source water/water recharge to the unnamed tributary and Cahaba River, it provides some capacity to receive and retain floodwater and ameliorate velocity of runoff flows, and provides some retention and removal of sediment that may be picked up in overland sheet flow across developed impervious lands and lands currently under development prior to entering the Cahaba River. Detritus and decomposition of organic matter from the abutting wetlands also provide some nutrients and organic carbon for use by wildlife and fish in downstream food chains.

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:
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:
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:

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 Unnamed Tributary to Cahaba River is not shown as a broken or solid blue line on USGS topographic quadrangle maps, however several segments of this tributary have been relocated and piped over the years in order to maintain flow capacity, also the topographic contours indicate a valley area between foot hills that would be conducive to supporting a seasonally flowing channel. Furthermore, significant development of the Hoover area and other communities just outside the Birmingham City limits has increased storm water runoff and municipal routing of that runoff to land areas that naturally supported water flow, therefore the current volume and frequency of flow in this tributary may have increased over time to a seasonally flowing tributary as a result of development generated inputs. The ability to observe a distinct, confined flow channel, OHWM, actual periodic water flow not solely in response to a rain event, and other physical indications of flowing water also helps support this unnamed tributary being a seasonal RPW.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: 402 linear feet 4width (ft).
 - Other non-wetland waters: acres.
- Identify type(s) of waters: .

3. **Non-RPWs⁸ 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: The scrub and hardwood forested wetlands abutting the unnamed seasonal RPW tributary to Cahaba River are not physically separated from the tributary channel by upland berms, roadways or other physical barriers

Provide acreage estimates for jurisdictional wetlands in the review area: 0.02acres.

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 jurisdictional. 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.

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

⁸See Footnote # 3.

⁹To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

- 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.
 - 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.

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.

- U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000 7.5 Minute Helena, AL.
- USDA Natural Resources Conservation Service Soil Survey. Citation: Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey 2.0, Jefferson and Shelby Counties, Alabama. Available online at <http://websoilsurvey.nrcs.usda.gov/> accessed [11/04/2008] .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): .
or Other (Name & Date): Color digital photographs taken 3 October 2008 and provided by Gallet and Associates in support of Nationwide Permit application and photographs taken by the Corps project manager during 17 September 2008 field review.
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: