

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): 22 December 2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Mobile District CESAM-RD-I, Shular Companies, SAM-2008-1090-LET

C. PROJECT LOCATION AND BACKGROUND INFORMATION: South of AL Hwy. 158 (Industrial Parkway) less than 0.1 mile west of Interstate 65

State: Alabama County/parish/borough: Mobile City: Saraland
Center coordinates of site (lat/long in degree decimal format): Lat. 30.80111° N, Long. -88.10638° W.
Universal Transverse Mercator: Zone 16 X: 394121.8070 Y: 3407905.0678

Name of nearest waterbody: Chickasaw Creek

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

Name of watershed or Hydrologic Unit Code (HUC): (12-digit) 031602020404 Lower Chickasaw Creek, (8 digit) 03160204

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: 8 August 2008

Field Determination. Date(s): 17 January 2008, 8 August 2008, and 18 August 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: linear feet: width (ft) and/or acres.

Wetlands: 1.1 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: 619,248.375 acres

Drainage area: Approximately 200 acres

Average annual rainfall: 64 +/- inches

Average annual snowfall: 0 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 (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: Off-site tributary to which project review area wetland drains does not cross or serve as State boundary.

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 wetland drain flows through a below ground culvert pipe under Jubilee Dr. (Old Shelton Beach Rd.) into a man-altered, channelized, unnamed RPW tributary drainage, which flows into a natural segment of the unnamed tributary, which flows into Chickasaw Creek (a TNW).
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 drainage downstream of the proposed project site as it

exists currently is confined into a man-made channelized drainage swale and ditch system that flows along property lines of developed business and Church establishments and through channelized drainage easements along road right-of-ways, however prior to channelization it was likely a continuation of the project site wetland drain that gradually formed a defined channel feature prior to flowing into Chickasaw Creek and its abutting wetlands.

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

Average width: 4.5 feet

Average depth: 2 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 channelized drainage appears to be relatively stable.

Presence of run/riffle/pool complexes. Explain: The drainage channel segment located south of the Fountain of Life Church facility contains areas of small in-stream sediment bars that it appears may be the system trying to establish more natural stream channel features such as glide/pool complexes that could allow better dissipation of water flow energy and sediment transport.

Tributary geometry: Relatively straight

Tributary gradient (approximate average slope): +/- 1 %

(c) Flow:

Tributary provides for: Seasonal flow

Estimate average number of flow events in review area/year: 11-20

Describe flow regime: Flow in the channel appears to be at least seasonal flow if not perennial flow, with the tributary experiencing periods of continuous flow during wetter seasons of the year (typically late fall or winter months into early spring in the Mobile County area).

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: Water in the channelized tributary drainage is normally confined within the banks of the channel.

Subsurface flow: Yes. Explain findings: Water exiting the wetlands on the proposed project site flow through approximately 1,000 linear feet of below ground piping beneath a church parking lot prior to discharging into a channelized drainage tributary to Chickasaw Creek.

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):

Discontinuous OHWM.⁷ Explain:

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.

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

- | | |
|--|--|
| <input checked="" type="checkbox"/> High Tide Line indicated by: | <input checked="" 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 lands immediately upstream of and surrounding the channelized tributary are developed commercial/retail, high-volume major highways (4+ lanes), and institutional (Church) type facilities. The tributary at I-65 contained clear water through which the channel substrate can be seen. The water has a slightly orangish-brown naturally tannic coloration but no cloudiness or turbidity were observed during field review.

Identify specific pollutants, if known: Potential pollutants include sediment, petroleum based products, and pathogens that can enter the water in highway, parking lot and business establishment runoff. The downstream receiving waterbody, Chickasaw Creek, occurs on Alabama's 2006 303(d) list of impaired waters due to elevated presence of Metals (specifically Mercury [Hg]) from unknown source(s).

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

Riparian corridor. Characteristics (type, average width): South of the Church and other adjacent commercially developed properties, the tributary is surrounded by predominantly bottomland hardwood forest with some interspersed pines, which provides food and cover for a variety of mammals, birds, reptiles and amphibians. The total width of naturally vegetated, forested wetland riparian corridor appears to vary from as little as 75 feet to well over 300 ft.

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 surrounding forest downstream of the channelized segment provide habitat to support a wide variety of terrestrial and aquatic species that utilize Chickasaw Creek and its associated wetlands and floodplain areas; however the channelized segment of tributary primarily provides for downstream water transport more than wildlife functions due to the amount of surrounding development and limited natural riparian buffer areas.

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: 1.1 acres

Wetland type. Explain: Bay/gum/titi mixed scrub-shrub with an area of freshwater herbaceous emergent vegetation.

Wetland quality. Explain: Low quality due to surrounding development including high traffic roads, ditches, commercial/retail land uses, and hydrologic alterations associated with these activities. Also as a result of historic disturbances and alterations to the site when it was used as an equipment storage yard by previous owner which was a towing company.

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 occurs through on-site wetlands, only after rainfall events, to off-site pipe to an un-named RPW that drains to Chickasaw Creek (TNW). Water does pond in some areas of wetlands on site at times other than in direct and immediate response to rainfall events.

Surface flow is: Discrete

Characteristics: Stormwater flowing through the site is confined to the wetland swale which does not exhibit bed and bank characteristics.

Subsurface flow: No. Explain findings: No evidence of subsurface flow based on visual inspection and topography and surrounding land use.

Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain: Project wetlands are connected to RPW via a 1,000 foot long underground pipe.

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: Water observed standing in area of forested wetland during 8 August and 18 August field reviews had orangish-brown coloration from natural leaching of tannic acid, however the water was clear with no obvious surface film.

Identify specific pollutants, if known: Although the downstream receiving TNW, Chickasaw Creek occurs on Alabama's 2006 303(d) list of impaired waters due to elevated presence of metals, specifically Mercury (Hg), there do not appear to be any obvious sources of such contaminants originating from this site. Wetland carries ephemeral flow and drainage from roads after rainfall, possible oil and grease from road run-off.

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

Riparian buffer. Characteristics (type, average width):

Vegetation type/percent cover. Explain: Project area wetland is partially forested and shrub-scrub and partially herbaceous emergent. Forested wetland vegetation includes *Acer rubrum*, *Cyrilla racemiflora*, *Magnolia virginiana*, *Ligustrum sinense*, *Nyssa biflora*, *Triadica sebiferum*, *Salix nigra*, *Quercus nigra*, *Pinus taeda*, and *Myrica cerifera*. Herbaceous emergent vegetation includes *Juncus effusus*, *Typha latifolia*, various *Carex* sp., *Scirpus cyperinus*, *Eleocharis equisetoides*, *Xyris* sp., *Eriocaulon decangulare*, and some *Triadica sebiferum* herbaceous stage seedlings.

Habitat for:

Federally Listed species. Explain findings:

Fish/spawn areas. Explain findings:

Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. Explain findings: Wetland in project area has limited wildlife utilization. Due to the site being surrounded by roads, major highways and interstates and commercial development, there is limited area for resident wildlife utilization other than possibly amphibians, small reptiles or small rodents. Wildlife utilization of wetlands on this site is likely limited to transient use such as wading birds or songbirds that stop to rest or forage. No evidence of wildlife utilization of the on-site wetlands were observed during 8 August or 18 August 2008 field reviews.

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

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

Approximately (165.1) 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>
N	1.1		
Y	164		

Summarize overall biological, chemical and physical functions being performed: The estimated 165.1 acres of wetlands being considered as 2 separate wetland areas in the cumulative analysis includes the 1.1 acre of wetlands delineated on the proposed project site, and an estimated 164 acres of possible wetlands (based on review of web soil survey soil data reports) within a large natural forested area that begins less than 0.5 mile south of the project site and is located on both the west and east sides of I-65 abutting to Chickasaw Creek. These wetland areas capture sediment and filter pollutants from runoff from surrounding commercially developed lands and highways. They provide habitat for a wide variety of wildlife species, including large and small mammals such as deer, raccoons, opossum, rabbits, bird species including raptors and wading birds, reptiles and amphibians and provide natural buffering and stormwater treatment to Chickasaw Creek.

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: The project site wetlands and the channelized downstream segment of RPW tributary they drain into, in combination with its directly abutting hardwood forested wetlands, have a significant nexus to the downstream TNW by providing 1)- shading of the non-RPW helping prevent/reduce increase of water temperature in waters feeding into downstream RPWs and TNWs 2)- a water source/contributing source of water recharge to the groundwater table, Chickasaw Creek, and other downstream waterbodies 3)- provides capacity to receive, retain and initially treat stormwater runoff potentially containing pollutants from paved and developed areas including sediment, petroleum based products, and pathogens prior to entering the downstream tributary system and TNW 4)- detritus and decomposition of organic matter conveyed from the wetlands by rainfall event flows and RPW flows also provide beneficial organic carbon to the downstream waters for use by wildlife and fish in the downstream aquatic system and food chains.

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:

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:

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:

Provide acreage estimates for jurisdictional wetlands in the review area: 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: 1.1 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
 Demonstrate that water meets the criteria for one of the categories presented above (1-6), or

⁸See Footnote # 3.

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

- 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.
 U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000 7.5 Minute Chickasaw, AL.

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.

USDA Natural Resources Conservation Service Soil Survey. Citation: Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey 2.0, Mobile County, Alabama. Available online at <http://websoilsurvey.nrcs.usda.gov/> accessed [11/19/2008] and the Soil Survey of Mobile County, Alabama issued May 1980 Sheet Number 76, fieldwork completed 1969-1977.

National wetlands inventory map(s). Cite name: Chickasaw, Alabama (digital data).

State/Local wetland inventory map(s):

FEMA/FIRM maps: Mobile County, Alabama and Incorporated Areas, Map No. 01097C0436 J, Effective July 6, 1998.

100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

Photographs: Aerial (Name & Date):

or Other (Name & Date): Color digital photographs taken by USACE project manager during 8 August 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: