

**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): 7 August 2009**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Mobile District CESAM-RD-I-S, Laurel Housing Authority/Chartre Consulting, Ltd. of Oxford Mississippi - 6.64 acre Caves Tract, SAM-2009-0380-LET**

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:** Southwest quadrant of the intersection of East 5<sup>th</sup> Street and Victoria Avenue.

State: Mississippi County/parish/borough: Jones City: Laurel  
Center coordinates of site (lat/long in degree decimal format): Lat. 31.69426° **N**, Long. -89.12072° **W**.  
Universal Transverse Mercator: 16 X: 299004.26 Y: 3508502.64

Name of nearest waterbody: Gardiner Creek

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

Name of watershed or Hydrologic Unit Code (HUC): 03170005 - Lower Leaf, MS

- 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: 31 March 2009  
 Field Determination. Date(s): 30 March 2009 and 10 July 2009

**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):<sup>1</sup>**

- TNWs, including territorial seas  
 Wetlands adjacent to TNWs  
 Relatively permanent waters<sup>2</sup> (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: 0.96 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):<sup>3</sup>**

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

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

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

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

### SECTION III: CWA ANALYSIS

#### A. TNWs AND WETLANDS ADJACENT TO TNWs

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<sup>4</sup> 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: 1,167,114.09 acres

Drainage area: 650 acres

Average annual rainfall: 57.5 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 30 (or more) river miles from TNW.

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

Project waters are 30 (or more) 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.

Identify flow route to TNW<sup>5</sup>: Wetland drains to Gardiner Creek which flows to Tallahala Creek, which flows into the TNW Leaf River..

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

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

Tributary stream order, if known:

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

Tributary is:  Natural  
 Artificial (man-made). Explain:

Manipulated (man-altered). Explain: Upstream of the JD site Gardiner Creek has been manipulated by piping and channelization/ditching through developed urban and residential areas and downstream by channelization and re-routing around a series of large holding ponds or water treatment lagoons.

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

Average width: 8 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 tributary has areas with sloughing earthen banks due to the volume and velocity of concentrated water flows that are directed into the tributary as a result of stormwater run-off from developed impervious surfaces and grassed land surfaces surrounding it. The historic channelization of the tributary to reduce flooding of adjacent residences and businesses and move water away from developed areas more quickly prevents the stream from being able to regularly access and spread out over an open floodplain area to dissipate its energy, therefore water during high flow events is scouring into the earthen channel banks. There are segments of the channel which have historically been armored with concrete and/or grouted in place riprap and are not eroding like some nearby segments of earthen bank.

Presence of run/riffle/pool complexes. Explain: Run/riffle/pool complexes are very degraded to non-existent due to the maintained channelization/ditching of the tributary.

Tributary geometry: Relatively straight

Tributary gradient (approximate average slope): Unknown %

(c) Flow:

Tributary provides for: Pick List

Estimate average number of flow events in review area/year: 20 (or greater)

Describe flow regime: The tributary is a perennially flowing stream which was observed to be flowing on both days of field review. The flow was greater on 30 March 2009 than on 10 July 2009 due to a total rainfall amount of approximately 7 inches received between 24 March and 28 March 2009. Flow was also observed in the tributary on 10 July 2009 despite below normal rainfall totals throughout June and only approximately 2.0 inches of rainfall between 1 July and 10 July.

Other information on duration and volume: No other information specific to Gardiner Creek, such as USGS gauge data, on flow and volume is available.

Surface flow is: Confined. Characteristics: Gardiner Creek has a defined engineered, human manipulated channel which exhibits bed and bank characteristics.

Subsurface flow: Unknown. Explain findings: Subsurface flow was not evaluated.

Dye (or other) test performed:

Tributary has (check all that apply):

Bed and banks  
 OHWM<sup>6</sup> (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.<sup>7</sup> Explain:

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

<sup>7</sup>Ibid.

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 water in Gardiner Creek north of the JD site across East 5<sup>th</sup> Street had no oily film but had a cloudy appearance as if from suspended sediment load in the water column on 30 March 2009. The water was clear on 10 July 2009 and there was no obvious oily film or discoloration. There is trash present in the tributary, such as drink cans and bottles, plastic bags from stores, food wrappers, etc.

Identify specific pollutants, if known: No identified pollutants or 303(d) listings for Gardiner Creek are known or have been located.

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

Riparian corridor. Characteristics (type, average width): Little if any naturally vegetated riparian corridor exists along Gardiner Creek with the exception of a short segment east of Victoria Street between Victoria Street and Interstate 59. Most of the creek is surrounded by paved streets, concrete sidewalks, mowed lawn or field areas, and parking lots.

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: Due to the heavily developed nature of the land surrounding the tributary, there is minimal opportunity for aquatic and/or terrestrial wildlife usage of the waterway, however the tributary supports sufficient flow that very mobile animals such as gambusia, small reptiles, frogs, songbirds, squirrels, raccoons and other small mammals adept at living in human dominated urban/suburban environments may utilize the tributary as a water source and area to forage for bugs and insects.

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: 0.96 acres

Wetland type. Explain: Palustrine emergent, herbaceous wetland. The original condition of these wetlands was likely palustrine forest along the floodplain of Gardiner Creek but has been converted to a herbaceous wet pasture area by historic clearing and land leveling and continued regular mowing and maintenance of the area.

Wetland quality. Explain: Wetlands within review area are low to moderated quality wetlands that have limited vegetative and structural diversity (only herbaceous cover, no shrub or canopy layer). Surrounding roads and commercial and residential development have physically fragmented the wetland area from Gardiner Creek and any other remaining wetlands in the vicinity and have diminished the habitat functions provided by this wetland area.

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: The wetland only experiences flow of surface water to Gardiner and Tallahala Creeks in direct response to water received in precipitation events.

Surface flow is: Overland sheetflow

Characteristics: During precipitation events direct precipitation to the wetland and water running off from surrounding lands flows to the wetland area which has a stormwater drop inlet at its northeast corner which drains water through underground piping from the wetland to a downstream outfall into Gardiner and Tallahala Creeks.

Subsurface flow: Yes. Explain findings: Water from wetland area, surrounding lands, and adjacent streets drains into a below ground system of drainage piping through a stormwater drop inlet located in the northeast corner of the wetland, which is at the southwest corner of the intersection of East 5<sup>th</sup> Avenue and Victoria Avenue.

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: The wetland area is physically separated from the Gardiner Creek stream channel by approximately 38 linear feet of upland area consisting of a paved roadway and its associated right of way, however, the wetland still drains to Gardiner and Tallahala Creek through an underground system of stormwater drainage piping which discharges to these waterways downstream of the JD review site. Although the JD site is separated from Gardiner Creek by a man-made paved upland roadway, the entire 6.64 acre site and wetland area is located within the 100 year floodplain of Gardiner Creek.

(d) Proximity (Relationship) to TNW

Project wetlands are 30 (or more) river miles from TNW.

Project waters are 30 (or more) aerial (straight) miles from TNW.

Flow is from: Wetland to navigable waters.

Estimate approximate location of wetland as within the 50 - 100-year 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 standing water in the review area wetlands during the 30 March 2009 field review but none during the 10 July 2009 field review. In March the standing water was clear with a slight naturally tannic tinge but no oily surface film or turbidity.

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):

Vegetation type/percent cover. Explain: Herbaceous emergent grasses and forbes including *Juncus effusus*, *Ranunculus repens*, *Solidago glomerata*, *Carex glaucescens*/85-90 % cover .

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 some foraging habitat for small amphibians, reptiles, crustaceans, birds, and mammals that reside permanently in or periodically utilize the area. During 30 March field review a crawfish was observed swimming in the standing water in the wetland area and songbirds were observed getting water from the wetland and foraging for bugs and worms in still saturated but non-standing water areas in uplands along the wetland boundary. During the 10 July field review there was no standing water in the wetland but multiple auditory observations of rustling on the ground down in the thick grass allowed partial glimpses of small mammals, possibly field mice.

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

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

Approximately ( 5.96 ) 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	0.96		
Y	5		

Summarize overall biological, chemical and physical functions being performed: The estimated 5.96 acres of wetlands being considered in the cumulative analysis consists of the JD area wetland and an estimated 5.0 acres of wetlands that remain along the downstream segment of Gardiner Creek and at its convergence with Tallahala Creek. This wetland system provides a water source/water recharge area to Gardiner Creek and Tallahala Creek, it provides capacity to receive and retain floodwater, and provides treatment of pollutants including removal of sediment and fixing of bacterial, chemical and petroleum contaminants that may be contained in stormwater run-off from developed urban areas prior to the water entering Gardiner Creek or Tallahala Creek. Detritus and decomposition of organic matter from the wetlands also provides nutrients and organic carbon for use by wildlife and fish in the downstream food chains of Tallahala Creek and Leaf River. The abutting wetland areas also provide some natural lands connected to a water source 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:
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 wetland area on the JD site which is adjacent to but does not abut Gardiner Creek receives precipitation and run-off water from adjacent undeveloped pasture land and paved roadways. The herbaceous emergent wetland has a significant nexus to the adjacent and downstream RPWs and TNW by providing 1)- a water source/contributing source of water recharge to Gardiner Creek, Tallahala Creek, and other downstream waterbodies 2)- provides capacity to receive, retain and treat stormwater run-off from rainfall events by providing a sink for removal and fixing of sediment, bacterial, chemical and petroleum contaminants that may be contained in stormwater run-off from developed urban areas and roadways prior to entering the downstream tributary system and TNW. The stormwater run-off treatment functions provided by this wetland area may be particularly important due to the frequent over the road transportation of live chickens into the the processing facility across the street from this site. Any feed, other organic, or fecal material that falls onto the road surface from the trucks transporting the live chickens has the opportunity to be washed into the wetland area with stormwater run-off during rainfall events and at least be partially treated in the wetland area prior to the water discharging into Gardiner and Tallahala Creeks.

**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-RPWs<sup>8</sup> 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: 0.96 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.<sup>9</sup>**

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

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

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

- 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):<sup>10</sup>**

- 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.

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

- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000 7.5 Minute Laurel East, MS.
- USDA Natural Resources Conservation Service Soil Survey. Citation: Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey 2.1, Jones County, Mississippi. Available online at <http://websoilsurvey.nrcs.usda.gov/> accessed [03/31/2009].
- National wetlands inventory map(s). Cite name: Laurel East, MS (scanned data).
- State/Local wetland inventory map(s):
- FEMA/FIRM maps: City of Laurel, Mississippi, Jones County Community Panel No. 28000920003 D Map revise effective May 18, 1998.
- 100-year Floodplain Elevation is: approximately 229 feet (National Geodectic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date):Aerial photography on Google Earth.  
or  Other (Name & Date):Digital color photographs taken by Corps project manager during 30 March 2009 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:**