**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): 21 June 2010**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Mobile District CESAM-RD-I-S, Chas. N Clark Associates - 20.1 acre Dr. Michael LaRochelle site, SAM-2010-0194-LET**

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:** Northwest of the city of Laurel on the west side of Wansley Road, south of Flynt Road at the terminus of Summer Trace Boulevard and Tallahoma Drive West.

State:Mississippi County/parish/borough: Jones City: Laurel

Center coordinates of site (lat/long in degree decimal format): Lat. 31.70752° N, Long. -89.16369° W.

Universal Transverse Mercator: Zone 16 X: 294959.81 Y: 3510053.08

Name of nearest waterbody: Tallahoma Creek

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

Name of watershed or Hydrologic Unit Code (HUC): (8-digit) 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: 25 February 2010

☒ Field Determination. Date(s): 26 February 2010

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

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

☐ Waters subject to the ebb and flow of the tide.

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

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

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

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

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
      Non-wetland waters: approximately 885 linear feet: approximately 80 to 100 width (ft) and/or acres.
      Wetlands: 2.65 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]

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[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.

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

[3] Supporting documentation is presented in Section III.F.

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

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

   (i) **General Area Conditions:**
   Watershed size: (8 digit HUC) 1,167,114.09**acres**
   Drainage area: Approximately 135 **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[5]: Wetlands drain to Tallahoma Creek which flows into Tallahalla Creek which flows into the TNW Leaf River.

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

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

Tributary stream order, if known: .

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

**Tributary** is: ☒ Natural
☐ Artificial (man-made). Explain: .
☐ Manipulated (man-altered). Explain: .

**Tributary** properties with respect to top of bank (estimate):
Average width: 90 feet
Average depth: Depth unknown, did not have an adequate measuring device for this parameter. Channel bottom could not be seen, depth estimated to be greater than 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: Based upon the day of field observation, the tributary appears to be stable with regard to meander pattern, however the creek appears to be experiencing some accelerated profile erosion with the channel becoming incised as a result. Despite the apparent incising of the channel there was sediment deposition and sediment staining on leaves and vegetation on the land indicating the creek is still able to get out of its banks and access its floodplain. The volume and velocity of water during high flow events has scoured sediment away from the root systems of some trees and shrubs along the creek banks exposing the root systems of these plants. Also, recent sand deposition from upstream sources and channel erosion can be observed on point bars in the creek, on the creek banks and shelves along the bank, and on the natural flood deposition levees along the margins of the creek.

Presence of run/riffle/pool complexes. Explain: The tributary has sufficient water depth that presence of substrate and instream woody debris features creating run/riffle/pool complexes within the channel was not readily observable from on the ground observation, although these types of typical stream morphology features are assumed to exist in the review area segment of the creek due to its apparent unchannelized/un-engineered natural condition.

Tributary geometry: **Meandering**
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: Tallahoma Creek is a continually flowing perennial stream which contained flowing water on the day of field evaluation.
Other information on duration and volume: No other tributary specific information or gage station data is available for Tallahoma Creek.

Surface flow is: **Discrete and confined.** Characteristics: Tallahoma Creek exhibits defined bed and bank characteristics with an associated 100-year floodplain, and a predominantly hardwood and shrub forested riparian corridor. The riparian corridor consists of both upland and wetland land areas.

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
☒ OHWM[6] (check all indicators that apply):

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

☐ Discontinuous OHWM.[7] Explain: .

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

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

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

**(iii) Chemical Characteristics:**

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

Explain: The water flowing in the tributary at the time of field review was turbid due to sediment load being carried by the water, however there was no oily film. The color of the water was a light tan color suggesting the turbidity was caused by natural bed load from native soil sources in the vicinity, not from typical orange red fill dirt commonly trucked in for use on construction and development sites.

Identify specific pollutants, if known: Tallahoma Creek (MS088T) from its headwaters to Tallahalla Creek is a Monitored Listed waterbody on MDEQ's approved 2008 303(d) list which does not meet all of the water quality criteria requirements for its listed use of Fish & Wildlife. The pollutant of concern identified for Tallahoma Creek is Biological Impairment.

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

☒ Riparian corridor. Characteristics (type, average width): Mixed pine, hardwood forest and shrub wetland and upland riparian corridor along the creek Riparian corridor along the east side of the creek has a mix of natural vegetative cover as well as established pasture land and disturbance from livestock farming and residential development activities. The west side of the creek has less developed road access in the immediate JD review area and currently has a greater amount of natural mixed pine and hardwood forest cover with less farming and residential disturbances.

☐ 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 creek conveys organic carbon and nutrients from decaying wetland and riparian plant material downstream to the resident amphibians and aquatic invertebrates, and aquatic and terrestrial vertebrates spawning, foraging, seeking shelter from predators, and/or residing 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:2.65 acres

Wetland type. Explain: Small 0.026 acre shelf of slumped creek bank within ordinary high water supporting sparse coverage of wetland vegetation and receiving frequent inundation from the creek and approximately 2.624 acres of mixed forested wetland drain and herbaceous wetland drain areas due to use past of the land for many years as pasture and a current maintained natural gas pipeline right-of-way through the property.

Wetland quality. Explain: Low to medium quality wetland areas due to repeated disturbance from natural flood event sediment deposition along the creek banks, conversion of portions of the wetland drain from forested to herbaceous habitat as a result of years of use as pasture and grazing land, and excess inundation on portions of the remaining forested areas of the wetland drain due to beaver activity near the convergence of the wetland drain into Tallahoma Creek.

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: **Intermittent flow**. Explain: Small 0.026 acre shelf area is frequently inundated by high water in the creek and during periods of normal flow is often saturated at ordinary high water levels. Based on observations of the 2.624 acre wetland drain during field review, water flow from this drain to Tallahoma Creek appeared to be perennial, however the field review was conducted during February which falls during the winter time of year in the southeastern U.S. when the presence and visible surface expression of a high water table (such as occurrences of slope seepage of groundwater onto the ground surface) is common; therefore when considering a full 12 month weather and groundwater cycle, flow from the wetland drain to the non-TNW Tallahoma Creek is more probably intermittent with continuous flow being only seasonal.

Surface flow is: **Discrete and confined**

Characteristics: This small wetland shelf on the east bank of Tallahoma Creek frequently receives saturation or inundation from the rise and fall of water levels in the creek. The wetland drain is a discrete, defined topographic feature on the landscape providing for conveyance of overland sheetflow and rainfall run-off to Tallahoma Creek.

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 **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 **2-year or less** 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: Areas of standing water and small groundwater discharge seepage flows in the 2.624 acre wetland drain consisted of clear water with no odor or oily film. The 0.026 acre wetland shelf along the creek bank did not contain any standing water at the time of field review.

Identify specific pollutants, if known: No known identified chemical pollutants to the 2.624 acre wetland drain; however due to its location within the creek channel, the small 0.026 acre shelf wetland would be subject to the Biological Impairment pollutant of concern identified for the waters of Tallahoma Creek.

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

☒ Riparian buffer. Characteristics (type, average width):The JD review area has a mixed pine and hardwood forested wetland and upland along Tallahoma Creek. The west bank of Tallahoma Creek has the greatest amount of naturally vegetated forest and shrub buffer as a result of a limited amount of clearing and conversion to pasture on that side of the creek. The amount of forested and shrub buffer on the west side of the creek varies from 100 feet to 300+ feet in width from the top of bank. However, due to the past use of the property in the JD area east of the creek as grazing and pasture land and conversion of much of the forested areas to open pasture, the riparian buffer along the east side of Tallahoma Creek varies from about 85 to 100 feet in width from the top of bank with the buffer width typically being less than 100 feet.

☒ Vegetation type/percent cover. Explain: The JD review area wetlands include herbaceous/pasture wetlands and forested, scrub-shrub wetlands. The dominant plant species in these wetlands project area have Fac to Obl Region 2 wetland indicator status and include species such as Juncus effusus, Polygonum sp., Erigeron vernus, Spartina sp., Solidago sp., Rubus trivialis, Scirpus cyperinus, Cephalanthus occidentalis, and Sapium sebiferum.

☒ 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 areas capable of providing resting, nesting, refuge from predators, and foraging habitat for small amphibians, reptiles, birds, and mammals that reside permanently in or periodically utilize the area as part of their range for carrying out daily activities.

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

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

Approximately ( 2.65 ) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

| Directly abuts? (Y/N) | Size (in acres) | Directly abuts? (Y/N) | Size (in acres) |
|---|---|---|---|
| Y | 2.624 | | |
| Y | 0.026 | | |

Summarize overall biological, chemical and physical functions being performed: The 2.65 acres of wetlands being considered in the cumulative analysis for the JD review area includes an approximately 1 mile segment of Tallahoma Creek that extending from an unnamed tributary convergence into Tallahoma Creek upstream of the review area to an unnamed tributary convergence into Tallahoma Creek downstream of the review area. These wetland areas are being considered as 2 wetland systems abutting the tributary drainage. These wetlands are a groundwater discharge area providing a water source/area of water recharge to the tributary helping maintain base flow. These wetland areas also provide water purification functions to Tallahoma Creek and downstream RPWs by moderating the flow of water and providing capacity to receive and retain floodwater resulting in removal of sediment, trash, fertilizers, pesticides, animal wastes, etc. that may be picked up in stormwater run-off from surrounding residential properties and farming and silvicultural activities prior to entering the creek. The ability to receive and retain stormwater also provides flood attenuation functions for residentially developed portions of the lands in this area as well as downstream communities. These wetland areas also provide area for wildlife to utilize while carrying out their daily functions such as foraging for food and water and seeking shelter for nesting or as refuge from predators.. The fruits, nuts, and seeds of plants, and detritus and decomposition of organic matter from the wetlands also provide nutrients and organic carbon to the RPWs and downstream TNWs for use by wildlife and fish on-site and 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: Tallahoma Creek is shown as a solid blue line on USGS topographic quadrangle maps, which typically indicates the presence of a perennially flowing stream. The tributary was also observed to contain flowing water on the date of the wetland delineator's field review in November 2009 as well as during the USACE field review in February 2010. During the February field review there was observable sediment deposition on the property, which is not evident in photos provided from November 2009, providing evidence that there have been flow events in the creek sufficient for the water to rise out of its banks into the floodplain on the land.
   - ☐ 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: **approximately 855** linear feet **approximately 90** width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters: .

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

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

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☒ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
     - ☒ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: **The small 0.026 acre shrub and vine vegetated wetland shelf within the review area is directly abutting to Tallahoma Creek situated a few feet below the top of bank along the inside of the stream channel and is not physically separated from the tributary by upland berms, roadways or other physical barriers. The larger 2.624 acre wetland drain connects to and discharges directly into Tallahoma Creek and there are no berms or other physical barriers separating the drain from the creek. See Section III D 2 above regarding perennial 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: **2.65** acres.

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

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

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

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[8]See Footnote # 3.

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

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

**E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):**[10]
- ☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
- ☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- ☐ which are or could be used for industrial purposes by industries in interstate commerce.
- ☐ Interstate isolated waters. Explain: .
- ☐ Other factors. Explain: .

**Identify water body and summarize rationale supporting determination:** .

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

**F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):**
- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - ☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
- ☐ Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):
- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):
- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

## SECTION IV: DATA SOURCES.

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

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

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

☐ Office 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 Laurel West, MS.
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey, Jones County, Mississippi. Available online at http://websoilsurvey.nrcs.usda.gov/, provided by wetland delineation consultant, accessed [11/09/2009].
☒ National wetlands inventory map(s). Cite name: Laurel West, MS scanned data from USFWS NWI on-line wetlands mapper at http://www.fws.gov/wetlands/Data/mapper.html.
☐ State/Local wetland inventory map(s): .
☒ FEMA/FIRM maps:Jones County, Mississippi (Unincorporated Areas) Community Panel No. 2802220045 B effective date: February 16, 1990 and City of Laurel, Mississippi Jones County Community Panel No. 2800920003 D map revised May 18, 1998.
☒ 100-year Floodplain Elevation is: 226 feet (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date):August 8, 2007 color aerial photography available from Google Earth Pro, and color aerial photography available with NCSS web soil survey maps and data.
or ☒ Other (Name & Date):Color digital photographs submitted by environmental consultant, Bart Pittman taken 11-19-2009 and color digital photographs taken by USACE project manager during 26 February 2010 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:** .