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): 19 July 2011

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Mobile District CESAM-RD-I-S, Calvary Baptist Church, SAM-2011-0586-LET (JD Form 4 jurisdictional wetland drain to Big Creek)

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Calvary Baptist Church property, Magee, MS north of Raleigh Drive/Dry Creek Road and west of Paul Kennedy Drive.

State: Mississippi County/parish/borough: Simpson City: Magee

Center coordinates of site (lat/long in degree decimal format): Lat. 31.880989° N, Long. -89.716510° W.

Universal Transverse Mercator: Zone 16 X: 243037.35 Y: 3530463.13

Name of nearest waterbody: Tributary to Big Creek

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

Name of watershed or Hydrologic Unit Code (HUC): (8 digit) 0317004 Upper 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: 19 May 2011

☒ Field Determination. Date(s): April 2011 agent field determination; 17 May 2011-USACE field evaluation

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: linear feet: width (ft) and/or acres.
      Wetlands: approximately 0.4 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) 1,121,090.52 **acres**
   Drainage area: 315 **acres**
   Average annual rainfall: 56.9 inches
   Average annual snowfall: < 1 inches

   (ii) **Physical Characteristics:**
   (a) Relationship with TNW:
   ☐ Tributary flows directly into TNW.
   ☒ Tributary flows through **2** tributaries before entering TNW.

   Project waters are **25-30** river miles from TNW.
   Project waters are **1-2** river miles from RPW.
   Project waters are **25-30** 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 on JD site flow to off-site unnamed tributary to Big Creek which flows into Big Creek which flows into Okatoma Creek approximately 25 miles upstream of the point at which Okatoma Creek is a

[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.

navigable-in-fact TNW waterway that supports use by multiple public recreational canoe and kayak rental businesses and campground facilities that offer guided or independent paddling on Okatoma Creek.
Tributary stream order, if known: .

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: Based on review of aerial photography, the tributary has been re-routed around residential and business development areas and has been straightened and channelized through agricultural fields.

Tributary properties with respect to top of bank (estimate):
Average width: Tributary is off JD site on private property; width unknown feet
Average depth: Tributary is off JD site on private property; depth unknown feet
Average side slopes: **Pick List.**

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: Unknown. Tributary is off JD site on private properties and could not be field evaluated.
Presence of run/riffle/pool complexes. Explain: .
Tributary geometry: **Relatively straight**
Tributary gradient (approximate average slope): %

(c) Flow:
Tributary provides for: **Seasonal flow**
Estimate average number of flow events in review area/year: **20 (or greater)**
Describe flow regime: In review of available historic aerial photography there is not an obvious, continuous tributary channel visible within the wetland drain that flows from the JD site to Big Creek, except in ditched sections around residential and business developments, although securing permission to field investigate the off-site areas might reveal the presence of a distinct bed and bank channel. However, review of historic aerial photography of Big Creek from the months of February, March, and September of various years shows inundation and/or presence of water within and around the creek channel demonstrating Big Creek supports perennial flow.
Other information on duration and volume: No other data sources with information specific to Big Creek or this drain to Big Creek, such as USGS gauge data on flow and volume, are available.

Surface flow is: **Discrete and confined.** Characteristics: Approximately 1 mile downstream of the JD site the wetland drain clearly converges with Big Creek which has a clearly visible channel with discrete, confined flow.

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[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: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):
☐ High Tide Line indicated by: ☐ Mean High Water Mark indicated by:
☐ oil or scum line along shore objects ☐ survey to available datum;

[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.

- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other (list):
- ☐ 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: Because Big Creek and any stream portion of the wetland drain to Big Creek are located off-site on other private properties, water characteristics could not be accessed and observed in the field.

Identify specific pollutants, if known: There are no identified pollutants of concern or 303(d) listings known for Big Creek.

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

☒ Riparian corridor. Characteristics (type, average width): Based on aerial photography review, Big Creek and the tributary wetland drain pass through extensive areas of residential and agricultural land use as well as some smaller areas of silvicultural land and a small number of areas of naturally vegetated forest. The most extensively buffered areas have approximately 150 feet each side of channel, with a few short section having slightly more buffer, many sections have only narrow buffering treeline, while most of the Big Creek channel in this area is cleared up to the banks with the surrounding land in row crops.

☐ 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 Big Creek drainage conveys organic carbon and nutrients from available 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 Big Creek and Okatoma Creek, 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: Approximately 0.4 acres

Wetland type. Explain: Forested and shrub wetland drain that has been disturbed in the past by installation of a culverted road that is not allowing for proper water flow out of the wetland. Vegetation in wetland includes L. styraciflua, S. sebiferum, L sinense, S. nigra, J. effusus, and Rubus spp.

Wetland quality. Explain:Moderate to low quality wetland drain due to sedimentation and modifications to hydrology that have resulted from historic agricultural, livestock pasture, and silvicultural uses and installation of a filled, culverted road crossing.

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: Hydrology from rainfall events and periodic presence of soil saturation due to high water table in the soils and landscape formation drive wetland flow.

Surface flow is: **Overland sheetflow**

Characteristics: During precipitation events, direct precipitation and water running off from surrounding lands flow to the wetland area which drains to the southwest to Big Creek.

Subsurface flow: **Unknown**. 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: The wetland drain which originates within the southwest corner of the project review area forms a disturbed and in some locations manipulated but continuous drainage that extends approximately 1 mile from the JD site to Big Creek. A visible signature of the drainage can be observed in aerial photography of the area surrounding the JD site. The water held in this wetland area and water from upland overland sheetflow provide an originating hydrology source which migrates through the wetland drain and culverts in rural roadways crossing the wetland drain to support and maintain the flow in Big Creek.

☒ Ecological connection. Explain: This approximately 1 mile long wetland drain flows through approximately 150 acres of residentially and commercially developed land and agricultural use uplands and wetlands. Although the area between the JD site has been significantly disturbed by development and years of agricultural row crop and silviculture uses, a minimal but continuous naturally forested drainage area has been maintained which also provides a contiguous corridor for wildlife access to a larger intact wetland corridor surrounding the convergence of Big Creek into Okatoma Creek.

☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **25-30** river miles from TNW.

Project waters are **25-30** aerial (straight) miles from TNW.

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

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

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: There was no standing water to be observed in the wetlands on the 17 May 2011 date of field evaluation.

Identify specific pollutants, if known: No known identified chemical pollutants to the wetland drain. There has been some minor sediment run-off into the wetland drain since the culverted fill road was constructed on the JD site.

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

☒ Riparian buffer. Characteristics (type, average width): Forested wetland buffer along segments of tributary which are off JD site.

☒ Vegetation type/percent cover. Explain:Forested and shrub wetland drain consisting of vegetation dominated by L. styraciflua, S. sebiferum, L sinense, S. nigra, J. effusus, and Rubus spp.

☒ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings:The wetlands provide resting, foraging, refuge, and nesting habitat for amphibians, reptiles, birds, and a range of mammals, such as raccoons, deer, opossum, and rabbits that reside in or periodically utilize the property.

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

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

Approximately (20) 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	approx. 20		

Summarize overall biological, chemical and physical functions being performed: The estimated 20 acres of wetlands being considered in the cumulative analysis consists of the wetland drainage originating on the JD site and extending downstream to Big Creek. The tributary drains through several residentially developed areas including rural residential properties and several acres of row cropped agricultural land. These wetlands provide a water source/water recharge area to Big Creek, they provide capacity to receive and convey floodwater as well as retain floodwater in less developed segments of the drainage, and provide treatment of pollutants including removal of sediment and fixing of bacterial, chemical and petroleum contaminants that may be contained in stormwater run-off from roadways and developed areas prior to the water entering Big Creek or Okatoma Creek. Detritus and decomposition of organic matter from wetlands and surrounding uplands also provides nutrients and organic carbon for use by wildlife and fish in the downstream food chains of Big Creek and Okatoma Creek. The wetland areas also provide some natural lands connected to a water source where various types of wildlife may rest, forage, seek refuge from predators, or nest.

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 jurisdictional wetland drain evaluated in this JD form is in the southwest corner of the property and drains off-site through other private properties prior to converging into Big Creek, which prevents ground truthing of condition and dimensions of these wetlands and any tributary features within the wetland drain. On USGS 7.5 Minute topographic maps, this wetland drain flows south into a small unnamed tributary to Big Creek shown to be a broken blue line, which is typically indicative of stream that sustains intermittent or seasonal flow at a minimum. This wetland drain flows south toward the off-site feature shown on topo maps as an intermittent tributary drainage which flows southeast to converge into perennial Big Creek approximately 1 mile away from the JD area. Due to canopy cover along the full extent of the wetland drain, it cannot be determined from aerial photography if this jurisdictional drain forms a distinct bed and bank channel feature prior to its convergence into Big Creek. The wetland area on the JD site is hydrologically and ecologically connected to, although not directly abutting to Big Creek. The JD area wetland drain receives precipitation and run-off water from adjacent undeveloped forested

land. This forested wetland drain has a significant nexus to the adjacent downstream RPWs and TNW by providing 1)- a water source/contributing source of water recharge to Big Creek which flows into Okatoma Creek 2)- provides capacity to receive, convey, retain and treat stormwater run-off from rainfall events by providing a flow conduit as well as a sink for removal and fixing of sediment, bacterial, chemical and petroleum contaminants that may be contained in stormwater run-off from resdiential development, agriculture lands, and roadways that cross the wetland drains prior to entering the downstream tributary system and TNW, 3)- detritus and decomposition of organic matter conveyed from and through the wetlands to the downstream seasonal RPW also provide nutrients and organic carbon to the downstream waters for use by wildlife and fish in the aquatic system and other terrestrial food chains dependent on this aquatic system as part of their foraging habitat, 4)- the review area wetlands and the narrow but continuous naturally forested drainage area that has been maintained through downstream residentially developed areas and ag lands does provide a corridor for wildlife movement and access between uplands and the water, habitat and foraging resources provided by Big Creek and Okatoma Creek.

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

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

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
     - ☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .
     - ☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

   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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area: **approximately 0.4** acres.

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[8]See Footnote # 3.

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
   ☐ 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.

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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.***

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 Magee North, MS.
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey, Simpson County, Mississippi. Available online at http://websoilsurvey.nrcs.usda.gov/ accessed [4/20/2011].
- ☒ National wetlands inventory map(s). Cite name: Magee North, MS (scanned data), from USFWS NWI on-line wetlands mapper at http://www.fws.gov/wetlands/Data/mapper.html, downloaded 20 May 2011.
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): Color aerial photography dated Aug. 8, 2001, Jun. 8, 2006, Jan. 13, 2006, and Sep. 11, 2004 downloaded from Google Earth; black and white aerial photography dated Feb. 12, 1996 printed from Google Earth; and circa 1980-1981 black and white aerial photography from the 1996 Simpson Co., MS soil survey book.
  or ☒ Other (Name & Date):Digital color photographs taken by USACE project manager during 17 May 2011 field review and photos taken by wetland consultant during April 2011 field data collection.
- ☐ 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: .