

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): June 13, 2019

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CESAM-RD-N, Hamilton Property-Highway 11, SAM-2019-00285-CMS

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Alabama County/parish/borough: Jefferson City: Trussville
Center coordinates of site (lat/long in degree decimal format): Lat. 33.617571° **Pick List**, Long. -86.619180° **Pick List**.
Universal Transverse Mercator:

Name of nearest waterbody: Pinchgut Creek

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

Name of watershed or Hydrologic Unit Code (HUC): Cahaba River

- ☒ 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: 6/13/19
☒ Field Determination. Date(s): 6/11/19

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 no** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

- ☐ TNWs, including territorial seas
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: linear feet: width (ft) and/or acres.
Wetlands: acres.

c. Limits (boundaries) of jurisdiction based on: **Pick List**

Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):³

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: **The identified feature on the subject property was determined to have no significant nexus with a TNW.**
Supporting documentation is found in the next sections.

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

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

³ Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. **TNW**

Identify TNW: .

Summarize rationale supporting determination: .

2. **Wetland adjacent to TNW**

Summarize rationale supporting conclusion that wetland is “adjacent”: .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

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

(i) **General Area Conditions:**

Watershed size: 1,170,198 acres

Drainage area: 11 acres

Average annual rainfall: 52 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 15-20 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 TNW⁵: The subject water would flow from a double barrel culvert on the northern property boundary, south to the southern property boundary, then southwest off of the property to a culvert under Highway 11,

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.

which would lead to an unnamed tributary (RPW) to Pinchgut Creek, which flows approximately 1,500 feet before flowing into Pinchgut Creek, an RPW. Pinchgut Creek flows approximately 6,500 feet before flowing into the Cahaba River in Trussville just south of Highway 11. The Cahaba River in this location is an RPW. The Cahaba River becomes a designated Section 10 water (TNW) at Caldwell Mill Road (County Road 29) in Hoover, Shelby County, AL approximately 36 river miles downstream.
Tributary stream order, if known: first.

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

Tributary is: ☐ Natural

☒ Artificial (man-made). Explain: The subject property appears to have been in agriculture use for years. The USGS topo map, NWI map, soil survey map do not show a tributary or a draw in this location. It is suspected that when the subdivision was built and the culverts drained water onto the subject property, that the landowner dug a ditch to drain the water off of the property. The feature has no sinuosity other than in the first 196 feet. It appeared as though spoil from the dug channel was placed directly adjacent to the channel.

☐ Manipulated (man-altered). Explain: .

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

Average width: 2 feet

Average depth: 1 foot

Average side slopes: **3:1**.

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 upper 196 feet of the reach has some evidence of scour and undercut banks. However, the lower 773 feet did not have any evidence of erosion.

Presence of run/riffle/pool complexes. Explain: There was no evidence of riffle/pool/run complexes.

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): 5 %

(c) Flow:

Tributary provides for: **Ephemeral flow**

Estimate average number of flow events in review area/year: **2-5**

Describe flow regime: The upper 196 feet appears to exhibit intermittent flow because it had water in it during the wet season when the consultant visited the site. It was dry during the site visit June 11, 2019. The lower 773 feet has ephemeral flow although it appears the channel very rarely conveys water. Saplings were growing in the channel in some locations, and there was a fair amount of undisturbed leaf and pine straw litter throughout the reach. It was difficult to identify an ordinary high water mark. No evidence of scour, water staining, or drainage patterns was observed.

Other information on duration and volume: It appears that when the subdivision was constructed, the only lots draining to the culverts on the subject site are the six lots north of the subject property, which is only about 3.5 acres. The area to the west drains to a storm sewer system that ends up discharging into a box culvert southwest of the site. The area north and east drains to a culvert that drains under Highway 11 east of the supermarket across the highway. .

Surface flow is: **Discrete**. Characteristics: .

Subsurface flow: **Yes**. Explain findings: It appears the flow from the upper reach goes underground because the lower reach does not appear to convey water. This area had an extremely wet winter, and the area received 1-2 inches of rainfall the weekend immediately prior to the June 11, 2019 site visit, yet the lower reach does not appear to have conveyed water in months.

☐ Dye (or other) test performed: .

Tributary has (check all that apply):

☐ Bed and banks

☐ OHWM⁶ (check all indicators that apply):

☐ clear, natural line impressed on the bank

☐ the presence of litter and debris

☐ changes in the character of soil

☐ destruction of terrestrial vegetation

☐ shelving

☐ the presence of wrack line

☐ vegetation matted down, bent, or absent

☐ sediment sorting

☐ leaf litter disturbed or washed away

☐ scour

⁶A 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.

- ☐ sediment deposition
- ☐ water staining
- ☐ other (list):

- ☐ multiple observed or predicted flow events
- ☐ abrupt change in plant community

☒ Discontinuous OHWM.⁷ Explain: The upper 196 feet had bed and banks, leaf litter washed away, shelving, water staining, scour, sediment sorting, and multiple observed flow events; however, the lower reach had very few OHWM indicators and those that were observed were sparse. There were a couple of areas in the lower reach where leaf litter was disturbed or washed away; however, the majority of this reach had undisturbed leaf and pine straw litter. There were a couple of places in the lower reach where a wrack line was observed near the area where the leaf litter was washed away. The wrack line was piled up against saplings growing in the middle of the channel.

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: <ul style="list-style-type: none"> <input type="checkbox"/> oil or scum line along shore objects <input type="checkbox"/> fine shell or debris deposits (foreshore) <input type="checkbox"/> physical markings/characteristics <input type="checkbox"/> tidal gauges <input type="checkbox"/> other (list): | <input checked="" type="checkbox"/> Mean High Water Mark indicated by: <ul style="list-style-type: none"> <input type="checkbox"/> survey to available datum; <input type="checkbox"/> physical markings; <input type="checkbox"/> 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: No water was observed in the entire reach during the site visit. The watershed upstream of the subject property is residential .

Identify specific pollutants, if known: None.

⁷Ibid.

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

☒ Riparian corridor. Characteristics (type, average width): There is a riparian corridor approximately 800 feet wide to the east on the property.

☐ 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: .

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: acres

Wetland type. Explain: .

Wetland quality. Explain: .

Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: .

Surface flow is: **Pick List**

Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

☐ 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 **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

Estimate approximate location of wetland as within the **Pick List** 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: .

Identify specific pollutants, if known: .

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

☐ Riparian buffer. Characteristics (type, average width): .

☐ Vegetation type/percent cover. Explain: .

☐ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☐ Aquatic/wildlife diversity. Explain findings: .

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

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately () 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)

Summarize overall biological, chemical and physical functions being performed: .

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: The water enters the subject property along the northern property line via double barrel culverts that only drain six residential lots to the north of the subject property. The water in this section appears to be seasonal based on multiple observations by the consultant. The channel has some evidence of scour, missing leaf litter, shelving, and water staining; however, after this 196-foot section, the channel narrows from about 6 feet wide to about 1 to 2 feet wide. There is little evidence of water flow in the lower 773 feet. Saplings were observed growing in the channel in a couple of locations in the lower reach. Ivy was observed beginning to grow into the channel. An undisturbed layer of leaf litter and pine straw was observed throughout the majority of the channel. The feature goes to the property line adjacent to Highway 11, where it is expected the culvert would be under Highway 11. The culvert is actually approximately 90 feet to the southwest of where the channel ends. Any flow coming through that channel would have to make a 90 degree turn and flow adjacent to Highway 11 to flow into the culvert under Highway 11. Also, it would be expected that if any flow is coming through the channel there would be erosion at the toe of the road, but none was observed. The area where the water would flow adjacent to Highway 11 to get to the culvert had no evidence whatsoever of water flowing through the area. It was a dry, grassed swale. So it appears that this channel is not or is very rarely conveying water downstream to a tributary, and therefore does not have more than a speculative effect on the chemical, physical or biological integrity of a downstream TNW. For these reasons, the Corps has determined the area in question does not have a significant nexus with a downstream TNW .
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:

- ☐ TNWs: linear feet width (ft), Or, acres.
☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**

- ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
☐ Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

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

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

3. **Non-RPWs⁸ that flow directly or indirectly into TNWs.**

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

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

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

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

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

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

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**

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

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

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**

- ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

7. **Impoundments of jurisdictional waters.⁹**

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

- ☐ Demonstrate that impoundment was created from “waters of the U.S.,” or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

⁸See Footnote # 3.

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

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: **Evidence of a lack of a significant nexus to a TNW is provided in Section IIIC above.**
- ☐ 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): **969** linear feet, **2** 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: Figures in Spectrum Environmental letter dated March 18, 2019: Site Location map, Site Location topo, site location aerial, NWI map, soil survey map, delineation map USGS topo, delineation map aerial, historic aerials (2019, 2018, 2016, 2015, 2013, 2012, 2011, 2010, 2006, 2003, 2002, 1998).
- ☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - ☐ Office concurs with data sheets/delineation report.
 - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☐ Corps navigable waters’ study: .
- ☐ U.S. Geological Survey Hydrologic Atlas: .
 - ☐ USGS NHD data.
 - ☐ USGS 8 and 12 digit HUC maps.

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

- ☒ U.S. Geological Survey map(s). Cite scale & quad name:USGS Leeds Quad.
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation:NRCS websoil survey, NRCS Jefferson County Soil Survey map book, August 1982, Sheet Number 14.
- ☒ National wetlands inventory map(s). Cite name:USFWS NWI map.
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date):2019, 2018, 2016, 2015, 2013, 2012, 2011, 2010, 2006, 2003, 2002, 1998.
or ☒ Other (Name & Date):Site photos June 11, 2019; March 12, 2019 (consultant).
- ☐ 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: .