**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): April 6, 2016**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CENAB-OPR-M (ARTISAN PROPERTY/PG CO./JD) 2015-00403**
**PROJECT LOCATION AND BACKGROUND INFORMATION: Reaches: An isolated non-tidal wetland on an approximately 2.95-acre property referred to as the Artisan Property.**
State: **Maryland** County/parish/borough: **Montgomery** City: **Clarksburg**
Center coordinates of site (lat/long in degree decimal format): Lat. **N 38.940555** Long. **W- 76.954444**
Name of nearest waterbody: **Northwest Branch of the Anacostia River**
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Anacostia River**
**The site is located along the east side of 40th Street between Shepherd Street and Utah Avenue, in Riverdale, Prince George's County, Maryland. The site drains north offsite an unnamed piped stream, which drains directly or indirectly into the Northwest Branch of the Anacostia River, which drains to the Potomac River. The Anacostia River and Potomac River are traditionally navigable waters and the Potomac River drains to the Chesapeake Bay, an interstate tidal traditionally navigable water.**
Name of watershed or Hydrologic Unit Code (HUC): **Middle Potomac-Anacostia-Occoquan Watershed (8 digit HUC 02070010)**
☒ 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: **10 March 10, 2016**
☒ Field Determination. Date(s):**26 March 2015**

**SECTION II: SUMMARY OF FINDINGS**

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

There are not "*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 and are not "*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:**

   **The project impact area is indicated below.**

   c. **Limits (boundaries) of jurisdiction based on: the Atlantic and Gulf Coastal Plain Regional Supplement to the Corps Wetland Delineation Manual**
   Elevation of established OHWM (if known):.

[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).

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

☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional. Explain: There we no waters of the United States, including jurisdictional wetlands found on-site.

## 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:
Drainage area:
Normal average monthly rainfall for

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

Project waters are approximately river miles from TNW.
Project waters are approximately river miles from RPW.

[3] Supporting documentation is presented in Section III.F.
[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Project waters are approximately  aerial (straight) miles from TNW.
Project waters are approximately  aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: .
Identify flow route to TNW[5]:

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:
Average depth:
Average side slopes:

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:
Tributary geometry:
Tributary gradient (approximate average slope):

(c) Flow:
Tributary provides for:
Estimate average number of flow events in review area/year:
Describe flow regime:
Other information on duration and volume:
Surface flow is:
Characteristics:
Subsurface flow:
☐ 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: N/A.

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;
☐ fine shell or debris deposits (foreshore) ☐ physical markings;
☐ physical markings/characteristics ☐ vegetation lines/changes in vegetation types.
☐ tidal gauges
☐ other (list):

**(iii) Chemical Characteristics:**

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

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

Identify specific pollutants, if known:

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

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

☐ 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.
Wetland quality. Explain: **Refer to Section IV.B.**
Project wetlands cross or serve as state boundaries. Explain: **N/A**.

(b) General Flow Relationship with Non-TNW:
Flow is:
Surface flow is**:**
Characteristics:
Subsurface flow: 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 river miles from TNW.
Project wetlands are aerial (straight) miles from TNW.
Flow is from:
Estimate approximate location of wetland as within the 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:
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: **Refer to Section IV.B.**

## 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: **W3 drains 25 feet downslope through mostly unconfined, discontinuous upland drainages and overland sheet flow to S5. W6 drains 45 feet downslope through mostly unconfined, discontinuous upland drainages and overland sheet flow to S9. W8 drains 40 feet downslope through mostly unconfined, discontinuous upland drainages and overland sheet flow to an offsite unnamed tributary of Ten Mile Creek. S5 drains south to S6, which drains south offsite to Ten Mile Creek. S9 drains south offsite to Ten Mile Creek. Ten Mile Creek is located offsite parallel to the west property boundary. Ten Mile Creek flows into Little Seneca Creek, which drains to Little Seneca Lake, which drains to Seneca Creek, which drains to the Potomac River, a tidal, navigable, interstate tributary of the Chesapeake Bay, an interstate TNW.**

   * Aquatic Life (Organisms): **Due to the ephemeral nature of the flow in S1 and S11, large aquatic organisms, such as fish, or aquatic organisms that require longer term flow would not be expected to be present. However, more opportunistic organisms that only require a short period of time to develop, such as some species of benthic macro-invertebrates, could potentially be expected to be present. During the Corps' site visit on 31 October and 21 November 2013, at the beginning of the wet season, water was not observed to be flowing in the channels, but no rain had fallen at the site in the five days prior to the site visit. While much of central Maryland, including the project area, received 3 to 4 inches more rain than average in October, central Maryland received 0.5 inches less than normal average monthly rainfall for November during November 2013.**

     **W3, W6, and W8 that drain to S5, S9, and an unnamed tributary offsite, respectively, would not provide habitat for large aquatic organisms or those that require long periods of flow, but may support organisms that only require brief periods of inundation to survive. Water draining from W3, W6, and W8 would be expected to indirectly support aquatic life in the adjacent streams by improving the quality of water draining to the perennial stream.**

   * Habitat for Wildlife: **A detailed assessment of the quality of wildlife habitat was not performed. The forested stream corridors, wetlands, and adjacent upland areas provide habitat for a variety of upland wildlife species, such as white-tailed deer.**

* Support Nutrient Cycling: **The ephemeral channels and abutting riparian areas would encourage chemical processes that require oxygenated conditions. Also, for wetlands and streams located in forested areas where carbon (fallen leaves) is allowed to be incorporated into the soil, uptake by plants can take place and carbon is provided to facilitate microbial action for nutrient cycling. Additionally, the conveyance of some of the detritus downstream may provide soil nutrition and a food source for fish and other aquatic organisms downstream. Reducing conditions in W3, W6, and W8 would encourage chemical processes that require anaerobic conditions, e.g. denitrification, also supported by the detritus from the surrounding upland areas, i.e. providing carbon to facilitate microbial respiration.**

* Sediment Transport: **The opportunity to perform this function is adequate for the streams with ephemeral flow (S1 and S11) because within these streams there are no major blockages, such as a beaver dam, to arrest the transport of sediment. W3, W6, and W8 do not contribute to sediment transport, but the vegetation in the four wetlands would be expected to contribute to sediment trapping.**

* Pollutant Trapping: **Overland drainage from nearby agricultural fields may enter the system within the forested area. Potential sources of pollutants, such as excess fertilizer, sediment, pesticides, and fecal matter (from cattle grazing), may enter the stream system. All the streams and wetlands on site are located in vegetated areas. Plants in general, and trees in particular, may trap some of the pollutants transported into the wetlands and streams on site. Ephemeral channels only tend to flow during and for a short period after storm events and in-channel flow during storm events tends to have very limited residence time; therefore although some of the vegetation in the floodplain may be able to trap pollutants, there is likely to be limited trapping of pollutants overall. W3, W6, and W8 that drain to S5, S9, and an unnamed tributary offsite, respectively, would be expected to have some success at trapping some of the anticipated pollutants, particularly nutrients via plant uptake, and sediment and some less persistent pesticides, due to the trapping in the soil and treatment with microbial processes in reducing conditions.**

* WQ Improvement: **Ephemeral channels only tend to flow during and for a short period after storm events and in-channel flow during storm events tends to have very limited residence time; therefore although some of the vegetation in the floodplain may be able to trap pollutants, there is likely to be limited trapping of pollutants overall. Conversely, if the ephemeral streams in this portion of the area of review (S1 and S11) were to be exposed to a pollutant, there is the possibility, depending on the persistence of the pollutant, for the pollutant to be transported from the ephemeral streams to the nearest TNW, the Potomac River. W3, W6, and W8 that drain to S5, S9, and an unnamed tributary offsite, respectively, would be expected to have some success at trapping some of the anticipated pollutants, particularly nutrients via plant uptake, and sediment and some less persistent pesticides, due to the trapping in the soil and treatment with microbial processes in reducing conditions; therefore, W3, W6, and W8 would be expected to have a moderate opportunity to improve the chemical and physical aspects of water quality in S5, S9, and waters downstream offsite.**

* Temperature: **The trees in the riparian buffer and in and around W3, W6, and W8 would be expected to contribute shade which would moderate temperature fluctuations in the channel, thereby moderating fluctuations of the concentration of dissolved oxygen (DO) and improving biological water quality improvement.**

* Flood Storage: **S1 and S11 are stable and connected to their floodplains, which would allow them to provide flood storage. W3, W6, and W8 would be expected to contribute to flood storage by holding water that drains to those wetlands.**

* Commerce: **S1 and S11 are all too small and flow too infrequently to provide recreational boating or fishing and thus have limited opportunities to support commerce. W3, W6, and W8 do not contain drainages that are large enough to support commerce. However, they would be expected to contribute stream flow and a small amount detritus to downstream waters which would improve water quality downstream in the Potomac River, a TNW which does support some fishing activities and supports boating in the tidal areas.**

* Navigation: **S1 and S11 are too small to be navigable. W3, W6, and W8 do not contain drainages that are navigable.**

* Recreation: **S1, S11, W3, W6, and W8 are all located on private property and have limited recreational opportunities due to small size and lack of regular or seasonal water flow regime. If allowed, the area of review could support additional recreational activities such as hiking and bird watching proportionate to the riparian upland forested habitat.**

* Public Health: **All of the streams and wetlands on site indirectly drain into Ten Mile Creek, which is the main tributary of Little Seneca Lake, the emergency drinking water source for the Washington D.C. metropolitan area. If a stream or wetland on site were to become impaired (e.g. pesticide spill), it is possible that the Little Seneca Lake could be affected, which would affect public health.**

* Groundwater Discharge: **Groundwater seeps were not observed during the 31 October and 21 November 2013 site visits.**

* Groundwater recharge: **S1 and S11 are ephemeral streams that flow primarily during and briefly after storm events. Therefore, water in these streams would be expected to be moving at a velocity that is too fast to encourage groundwater recharge. W3, W6, and W8 would be expected to hold enough water to at least result in saturated soils during a portion of the growing season, therefore they would be expected to be connected to the groundwater table for at least part of the time and could provide groundwater recharge.**

**Based on the above and field experience in Central Maryland, the wetland onsite does not have a significant nexus with the physical, chemical, or biological integrity of the TNW.**

**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:
   - ☐ Wetlands adjacent to TNWs:

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):
     - ☐ 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:

   - ☐ Other non-wetland waters:
     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:

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:

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 acreage estimates for jurisdictional wetlands in the review area:

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

[8]See Footnote # 3.
[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

☐ 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:
☐ Other non-wetland waters:
Identify type(s) of waters:
☐ Wetlands:

**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):
☐ Lakes/ponds:
☐ Other non-wetland waters: List type of aquatic resource:
☐ Wetlands:

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):
☐ Lakes/ponds:
☐ Other non-wetland waters: acres. List type of aquatic resource:
☐ Wetlands:

## 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: **ADC vicinity map included in WSSI Delineation Report submission dated 15 December 2014.**
☒ 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: **From USFWS mapping website (http://www.fws.gov/wetlands/Data/Mapper.html) Included in delineation report**
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **soil resource report of soil series mapped on site included in delineation report.**
☒ National wetlands inventory map(s). Cite name: **From USFWS mapping website (http://www.fws.gov/wetlands/Data/Mapper.html) Included in delineation report**
☒ State/Local wetland inventory map(s): **Wetlands of Special State Concern and state wetlands data layer for area of review from the MERLIN interactive map.**
☐ FEMA/FIRM maps:
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): high resolution **aerial imagery of site dated 2011 – 2013 and 2010-2011, and infrared imagery dated 1988 - 1994 from MDNR MERLIN mapping website**
or ☒ Other (Name & Date): **Photographs dated August 2013 included with Delineation Report.**
☐ Previous determination(s). File no. and date of response letter:
☐ Applicable/supporting case law:
☐ Applicable/supporting scientific literature:
☒ Other information (please specify): **see footnotes elsewhere in basis form and listed in references below**

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**

**References:**