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): July 10, 2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CESWL-RD, Ben E. Keith NLR Distribution Center, 2014-00019

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Arkansas County/parish/borough: Pulaski City: North Little Rock
Center coordinates of site (lat/long in degree decimal format): Lat. 34.7729 °, Long. -92.16608 °
Universal Transverse Mercator: 576306.66, 3848184.09
Name of nearest waterbody: Unnamed Tributary to Stark Bend.
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Arkansas River
Name of watershed or Hydrologic Unit Code (HUC): 11110207, Lower Arkansas- Maumelle. Arkansas

- [x] 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):

- [x] Office (Desk) Determination. Date: February 19, 2014
- [x] Field Determination. Date(s): July 10, 2014

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
- [x] Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
- [ ] Non-RPWs that flow directly or indirectly into TNWs
- [x] 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: Intermittent stream: 1,580 linear feet; 10 width (ft). Man-made Drainage Ditch (intermittent): 1,083 linear feet: 5 width (ft).
   Wetlands: Area 1: 1.43 acres; Area 2: 0.30 acres; Area 3: 0.44 acres; Area 4: 1.04 acres; Area 5: 2.51 acres; and Area 6: 3.6 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]

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

[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 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: 1,100 square miles
Drainage area: 66 square miles

Average annual rainfall: 48.66 inches
Average annual snowfall: 2.00 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

☑ Tributary flows through 8 tributaries before entering TNW.

Project waters are 20-25 river miles from TNW.
Project waters are 1 (or less) river miles from RPW.
Project waters are 10-15 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: NO

Identify flow route to TNW[5]: The flow route exist in the following sequence (1) Intermittent Man-Made Ditch 1(RPW) and abutting 5 wetlands, (2) Intermittent Stream (RPW) and abutting wetland 6, (3) Ditch 3 (RPW), (4) Faulkner Lake (RPW), (5) Ashley Bayou (RPW), (6) Ditch 4 (RPW), (7) Horseshoe Lake (RPW), (8) Scott Bayou (RPW), (9) Old River Lake (RPW), (10) Ditch 5 (RPW), Arkansas River (TNW).
Tributary stream order, if known: First Order.

[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.

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

Tributary is:

- ☐ Natural
- ☑ Artificial (man-made). Explain: The RPW tributary that runs west to east is a man-made ditch that crosses the property and drains not only the property by overland sheet flow but intermittently drains the five abutting wetlands (wetlands 1-5) on the property into a RPW intermittent stream that flows along with its abutting wetland (wetland 6) out of Stark Bend (old Arkansas River oxbow) north of the property. This ditch was constructed between September 2006 and September 2009 to drain the property and took the place of a north-south drainage ditch that previously bisected the property.
- ☑ Manipulated (man-altered). Explain: The north-south flowing intermittent stream shows signs of channelization in the past and presently runs in a relatively straight line.

Tributary properties with respect to top of bank (estimate):
Average width: Intermittent man-made ditch: 5 feet; intermittent stream 5-10 feet.
Average depth: Intermittent man-made ditch: 2 feet; intermittent stream 2-3 feet.
Average side slopes: 2:1

Primary tributary substrate composition (check all that apply):

☑ Silts	☐ Sands	☐ Concrete
☐ Cobbles	☐ Gravel	☑ Muck
☐ Bedrock	☑ Vegetation. Type/% cover: hydrophytic vegetation 20%.	
☐ Other. Explain:		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: stable, minor siltation is from previous agricultural activities that no longer occur.
Presence of run/riffle/pool complexes. Explain: NONE
Tributary geometry: Relatively Straight
Tributary gradient (approximate average slope): 1-2%

(c) Flow:

Tributary provides for: Seasonal Flow
Estimate average number of flow events in review area/year: 11-20
Describe flow regime: Flow occurs from during moderate to high water events; sheet flow from previous agricultural lands; abutting wetland outflows.
Other information on duration and volume: NONE

Surface flow is: Discrete and Confined Characteristics: The ditch is an earthen ditch with a depth of approximately 2 feet; the stream is a channelized stream with a depth of 2-3 feet and both include defined banks and ordinary high water marks (OHWM).

Subsurface flow: Unknown Explain findings:

- ☐ Dye (or other) test performed:

Tributary has (check all that apply):

- ☑ Bed and banks
- ☑ OHWM[6] (check all indicators that apply):

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

- ☐ Discontinuous OHWM.[7] Explain:

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

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

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

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: Water color is semi-clear with some evidence of siltation from overland sheetflow runoff.
Identify specific pollutants, if known: Unknown, possibly agricultural related.

(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: Amphibians and small birds were observed when wetland delineation was performed by the applicant's consultant.

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: Wetland 1: 1.43 acres; wetland 2: 0.30 acres; wetland 3: 0.44 acres; wetland 4: 1.04 acres; wetland 5: 2.51 acres; wetland 6: 3.6 acres.
Wetland type. Explain: Wetland 4 and 6 are forested wetlands, wetlands 1, 2, 3 and 5 are scrub-shrub wetlands.
Wetland quality. Explain: Moderate to high quality. (1988 Wetland Delineation Study, Waterways Experiment Station, USACE). Current quality of these wetlands has degraded primarily due to agricultural runoff (sedimentation) and hydrology changes that have occurred from development in the area.
Project wetlands cross or serve as state boundaries. Explain: NO

(b) General Flow Relationship with Non-TNW:
Flow is: Intermittent Flow Explain: No flow during hot summer months.

Surface flow is: Discrete
Characteristics: wetland flow into the RPW is through poorly defined shallow channels and through overland sheetflow.

Subsurface flow: Unknown 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 25-30 river miles from TNW.
Project waters are 20-25 aerial (straight) miles from TNW.
Flow is from: Wetland to Navigable Waters
Estimate approximate location of wetland as within the 100 - 500-year floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: wetland water is somewhat murky typical of scrub-shrub and some forested wetlands with fluctuating water levels.

Identify specific pollutants, if known: Possibly agricultural chemicals in the past.

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

- ☑ Riparian buffer. Characteristics (type, average width): Wetlands 1, 2, 3, and 5 have limited fringe vegetation; wetlands 4 and 6 are forested.
- ☑ Vegetation type/percent cover. Explain: Evening primrose: OBL, 30%; Yellow nutsedge: FAC, 30%; willow oak: FACW, 20%; pin oak: FACW, 20%
- ☑ Habitat for:
  - ☐ Federally Listed species. Explain findings:
  - ☐ Fish/spawn areas. Explain findings:
  - ☐ Other environmentally-sensitive species. Explain findings:
  - ☑ Aquatic/wildlife diversity. Explain findings: Aquatic wildlife diversity includes small fish and wildlife species inhabiting wetland communities. Local loss of wetlands due to development makes these habitats locally important for sustaining wetland plant and animal species.

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

All wetland(s) being considered in the cumulative analysis: 6
Approximately (9.32) 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)
Yes	1.43	Yes	2.51
Yes	0.30	Yes	3.60
Yes	0.44	7T	
Yes	1.04	7T	

Summarize overall biological, chemical and physical functions being performed: Wetlands 1-5 provide nutrients to downstream habitats and some flood retention. Wetland 6 is the highest value wetland in the review area providing nutrients for downstream food webs, flood retention properties, and being a forested wetland even higher chemical filtering properties than wetlands 1-5 (wetland 4 is also a forested wetland but is more degraded and smaller than wetland 6).

C. SIGNIFICANT NEXUS DETERMINATION *(INFORMATION PROVIDED IN SECTION III. B.)*

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

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

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

2. RPWs that flow directly or indirectly into TNWs.

- ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
- ☑ 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: The intermittent man-made channel (west to east) and intermittent stream that flows north to south in the project area, along with its abutting forested wetland, conveys flow through the Stark Bend area (historic Arkansas River channel), Faulkner Lake Wetland Complex and then into the Arkansas River (TNW). This area contains numerous old river channel scars that retain floodwater following storm events and releases these waters over a lengthy period. In addition, except during the hot summer months, these areas maintain consistent water flows.

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

- ☑ Tributary waters: 2,663 linear feet 5-10 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: Wetlands 1-6, along with the RPW man-made channel and the RPW Intermittent stream, identified in Section III.D.2. are part of Stark Bend, which is an old Arkansas River channel or scar and as such are connected hydrologically by surface connections to the man-made intermittent channel for wetlands 1-5 and for wetland 6 by direct contact with the north-south flowing intermittent stream on the east of the property.

Provide acreage estimates for jurisdictional wetlands in the review area: 9.32 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: 7T 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:

[8]See Footnote # 3.

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):P

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

[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.*

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: PMI, Inc. – Wetland Delineation (November 13, 2013).
- ☑ Data sheets prepared/submitted by or on behalf of the applicant/consultant: PMI, Inc. – Wetland Delineation (November 13, 2013).
  - ☐ Office concurs with data sheets/delineation report.
  - ☑ Office does not concur with data sheets/delineation report. PMI identified the west to east flowing channel as ephemeral. A site visit on July 10, 2014 by Corps Regulatory staff seemed to indicate that the channel contained flow at least seasonally and therefore should be classified as intermittent.
- ☐ Data sheets prepared by the Corps:
- ☐ Corps navigable waters' study:
- ☑ U.S. Geological Survey Hydrologic Atlas: 11110207, Lower Arkansas-Maumelle. Arkansas.
  - ☑ USGS NHD data.
  - ☑ USGS 8 and 12 digit HUC maps.
- ☑ U.S. Geological Survey map(s). Cite scale & quad name: 24K, AR-MCALMONT.
- ☑ USDA Natural Resources Conservation Service Soil Survey. Citation: Provided in Wetland Delineation.
- ☑ National wetlands inventory map(s). Cite name: Provided in Wetland Delineation.
- ☐ State/Local wetland inventory map(s):
- ☑ FEMA/FIRM maps: Pulaski County, Arkansas, Panel 318 of 585, Map Number: 050179 0318 C
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☑ Photographs: ☑ Aerial (Name & Date): PMI, Inc. Wetland Delineation, November 2013; Regulatory ArcGis Data – 2014.
  - ☐ or ☑ Other (Name & Date):): PMI Inc. Wetland Delineation, November 2013.
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☑ Other information (please specify): 1988 Wetland Delineation Study, Waterways Experiment Station, USACE.

B. ADDITIONAL COMMENTS TO SUPPORT JD: The area involved in this approved jurisdictional determination (70 acres) consists of six (6) wetlands (9.32 acres), an intermittent stream (1,580 linear feet), and an intermittent man-made ditch or channel (1,083 linear feet). The wetlands meet all of the indicators (wetland hydrology, hydric soils, and hydrophytic vegetation) from the U.S. Army Corps of Engineers, Jurisdictional Determination Form Instructional Guidebook (2007), the 1987 Corps of Engineers Wetlands Delineation Manual, Regional Supplements, appropriate guidance, and Department of the Army regulations. The stream and channel along with their adjacent wetlands provide at least seasonal flow to other RPW's and a TNW (Arkansas River). The wetlands and streams provide flood retention, nutrient transport, and support downstream habitat for fish and wildlife in the area.