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): October 22, 2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CESWL, Bruce and Joan Johnson JD – E 15th St and Morningside Drive in Fayetteville, 2014-00114

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Arkansas County/parish/borough: Washington City: Fayetteville
Center coordinates of site (lat/long in degree decimal format): Lat. 36.046°, Long. -94.146°
Universal Transverse Mercator: 3989686 Northing, 396727 Easting
Name of nearest waterbody: Town Branch and unnamed tributaries and associated wetlands
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: White River
Name of watershed or Hydrologic Unit Code (HUC): 11010001

- [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: July 16, 2014
- [x] Field Determination. Date(s): April 30, 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
- [x] Non-RPWs that flow directly or indirectly into TNWs
- [x] Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- [x] 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: 4,595 linear feet: 54 width (ft) and/or acres.
Wetlands: 2.70 acres.

c. Limits (boundaries) of jurisdiction based on:
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: 20,678 acres
Drainage area: 7,380 acres

Average annual rainfall: 47 inches
Average annual snowfall: 7 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

☑ Tributary flows through 2 tributaries before entering TNW.

Project waters are 10-15 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:

Identify flow route to TNW[5]: Town Branch flows into the West Fork White River, which flows into the White River. All other streams onsite flow directly or indirectly into Town Branch.
Tributary stream order, if known:

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

Tributary is: ☑ Natural

☐ Artificial (man-made). Explain:

☐ Manipulated (man-altered). Explain:

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

Tributary properties with respect to top of bank (estimate):
Average width: Town Branch (Stream 6): 54 feet; Stream 1: 8 feet; Stream 2: 19 feet; Stream 3: 11 feet; Stream 4: 3 feet; Stream 5: 2 feet
Average depth: Town Branch (Stream 6): 6 feet; Stream 1: 3.5 feet; Stream 2: 2.5 feet; Stream 3: 2 feet; Stream 4: 6 inches; Stream 5: 6 inches
Average side slopes: Town Branch: Vertical (1:1 or less)

Primary tributary substrate composition (check all that apply):

- ☑ Silts
- ☐ Sands
- ☐ Concrete
- ☐ Cobbles
- ☑ Gravel
- ☐ Muck
- ☐ Bedrock
- ☑ Vegetation. Type/% cover: Town Branch is approximate 70% canopy cover. Vegetation consists of grasses, shrubs, vines, and trees. Stream 1 has little canopy cover, but bordered largely by grasses and shrubs. Streams 2 and 3 are approximate 50% canopy cover. Streams 5 and 6 are 100% canopy cover.
- ☐ Other. Explain:

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Town Branch: Banks are eroding moderately. Stream is incised, with vertical banks approximately 8 feet tall.
Presence of run/riffle/pool complexes. Explain: Town Branch: Run/riffle/pool complexes present.
Tributary geometry: Meandering
Tributary gradient (approximate average slope): 7T%

(c) Flow:
Tributary provides for: Stream 3, 4, 5: Ephemeral Flow; Town Branch, Stream 1, Stream 2: Seasonal Flow
Estimate average number of flow events in review area/year: 20 (or greater)
Describe flow regime:
Other information on duration and volume:
Surface flow is: Discrete and Confined Characteristics:
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
  - ☐ changes in the character of soil
  - ☑ shelving
  - ☑ vegetation matted down, bent, or absent
  - ☑ leaf litter disturbed or washed away
  - ☑ sediment deposition
  - ☐ water staining
  - ☐ other (list):
  - ☑ the presence of litter and debris
  - ☑ destruction of terrestrial vegetation
  - ☐ the presence of wrack line
  - ☑ sediment sorting
  - ☑ scour
  - ☐ multiple observed or predicted flow events
  - ☐ abrupt change in plant community
- ☐ Discontinuous OHWM.[7] Explain:

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

- ☐ High Tide Line indicated by:
  - ☐ 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 clear. Some foam was observed in Town Branch. Project site is in a rapidly developing section of Fayetteville. Upstream is a well developed part of the city, including the University of Arkansas and Interstate 49.

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[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.

Identify specific pollutants, if known: Pollution from vehicles and roads, excess nutrient/pollution runoff from overapplication of fertilizers and pesticides.

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

- [x] Riparian corridor. Characteristics (type, average width): Approximately 200-400 feet of the southern portion of the property is wooded (typically, Town Branch and south), the eastern border of the site is wooded, and the west-central portion of the property is shrubby with saplings, shrubs and vines. This property connects two larger wooded areas to the east and west of the property.
- [x] Wetland fringe. Characteristics: Wetlands 3, 4, and 5 are directly contiguous to streams 1, 2, and 4, respectively. Wetland 4 is a scrub-shrub wetland and wetlands 3 and 5 are forested.
- [x] Habitat for:
  - [ ] Federally Listed species. Explain findings:
  - [ ] Fish/spawn areas. Explain findings:
  - [ ] Other environmentally-sensitive species. Explain findings:
  - [x] Aquatic/wildlife diversity. Explain findings: The wooded portion of the property acts as a land bridge between two larger wooded tracts. This allows for greater animal diversity than may otherwise be seen in a unit of land such as the subject property.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: 2.70 acres total. Wetland 1: 0.86 acres; Wetland 2: 0.89 acres; Wetland 3: 0.17 acres; Wetland 4: 0.62 acres; Wetland 5: 0.16 acres.

Wetland type. Explain: Wetlands 1 and 4 are scrub-shrub wetland. Wetlands 3 and 5 are forested wetlands. Wetland 2 is partially forested.

Wetland quality. Explain: Wetland 2 is partially located in a field that has been used for hay production.

Project wetlands cross or serve as state boundaries.

(b) General Flow Relationship with Non-TNW:

Flow is: Explain:

Surface flow is: Discrete

Characteristics:

Subsurface flow: Unknown Explain findings:

- [ ] Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

- [x] Directly abutting
- [x] Not directly abutting
  - [x] Discrete wetland hydrologic connection. Explain: Wetlands 1, 2, and 5 are adjacent to Town Branch. All adjacent wetlands are at least partially in the regulatory Floodway, and located completely within the 100-year floodplain.
  - [ ] Ecological connection. Explain:
  - [ ] Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are 10-15 river miles from TNW.

Project waters are 10-15 aerial (straight) miles from TNW.

Flow is from: Wetland to Navigable Waters

Estimate approximate location of wetland as within the floodplain. 100%

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Water color is generally clear.

Identify specific pollutants, if known: Project site is in a rapidly developing section of Fayetteville. Upstream is a well developed part of the city, including the University of Arkansas and Interstate 49. Possible pollutants include asphalt residue, vehicle exhaust, and application of fertilizers and pesticides.

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

- [x] Riparian buffer. Characteristics (type, average width): Wetland 2 is partially forested (to the south); wetland 5 is forested; wetland 1 is scrub-shrub.
- [ ] Vegetation type/percent cover. Explain:
- [x] Habitat for:
  - [ ] Federally Listed species. Explain findings:

- ☐ Fish/spawn areas. Explain findings:
- ☐ Other environmentally-sensitive species. Explain findings:
- ☑ Aquatic/wildlife diversity. Explain findings: The wooded portion of the property acts as a land bridge between two larger wooded tracts. This allows for greater animal diversity than may otherwise be seen in a unit of land such as the subject property.

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

All wetland(s) being considered in the cumulative analysis:
Approximately (2.70) 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)
1	No	0.86	4	Yes	0.62
2	No	0.89	5	Yes	0.16
3	Yes	0.17			

Summarize overall biological, chemical and physical functions being performed: All wetlands are within the floodplain of Town Branch. These wetlands perform valuable flood storage functions, and are capable of removing pollutants from the water.

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: Streams 3, 4, and 5 are all classified as ephemeral drains and have no adjacent wetlands, though technically wetland 5 is abutting stream 4 (it is also adjacent to Town Branch). These streams carry water to the system which, based on the geographic location as an area of high development, is likely to be at least moderately polluted. Stream 5 drains an auto salvage facility. Stream 4 may also drain a portion of the auto salvage facility. Stream 3 drains a residential and recreational area. These streams provide water and organic matter for life cycles of small animals, and may occasionally provide shelter and nourishment for larger animals.

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: Wetlands 1, 2, and 5 are adjacent to, but do not abut Town Branch. All wetlands are located at least partially within the floodway of Town Branch, and are completely within the 100-year floodplain. Wetlands 1 and 2 are north of the stream and are located on the first terrace of land adjacent to the stream. Wetland 5 is on the southern side of the stream, which is slightly higher than the terrace on the northern side, but wetland 5 is also directly in contact with stream 4. All wetlands have the capacity to remove pollutants from the water cycle, and may provide habitat for many species of animals.

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: Town Branch has a drainage area of 7,835 acres and is listed as perennial by USGS. Town Branch is 1,472 linear feet in the review area.
   - ☑ 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: Stream 1 has a drainage area of approximately 40 acres and is listed as intermittent by USGS. Stream 2 has a drainage area of approximately 100 acres and is listed as intermittent by USGS.

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☑ Tributary waters: Stream 1: 1,154 linear feet, 8 feet wide; Stream 2: 1,158 linear feet, 19 feet wide
   - ☐ 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: Stream 3: 439 linear feet, 11 feet wide; Stream 4: 175 linear feet, 3 feet wide; Stream 5: 197 linear feet, 2 feet wide
   - ☐ 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: Stream 2 flows directly through wetland 3. Likewise, stream 1 flows directly through wetland 4.

   Provide acreage estimates for jurisdictional wetlands in the review area: Wetland 3: 0.17 acres; Wetland 4: 0.62 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: Wetland 1: 0.86 acres; Wetland 2: 0.89 acres; Wetland 5: 0.16 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: 7T 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).

[8] See 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:
- ☐ Other: (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☑ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: see electronic and hard-copy file referenced below
- ☑ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☑ Office concurs with data sheets/delineation report. (submitted June 18, 2014)
  - ☑ Office does not concur with data sheets/delineation report. (submitted March 10, 2014)
- ☐ Data sheets prepared by the Corps:
- ☐ Corps navigable waters' study:
- ☑ U.S. Geological Survey Hydrologic Atlas:
  - ☑ USGS NHD data.

[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.*

- [x] USGS 8 and 12 digit HUC maps.
- [x] U.S. Geological Survey map(s). Cite scale & quad name: 1:24K Fayetteville
- [x] USDA Natural Resources Conservation Service Soil Survey. Citation: Arkansas_Soils
- [ ] National wetlands inventory map(s). Cite name:
- [ ] State/Local wetland inventory map(s):
- [x] FEMA/FIRM maps: \\Washington_County\DFIRM_DB\ARCSHAPE\S_FLD_HAZ_AR.shp
- [ ] 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- [x] Photographs: [x] Aerial (Name & Date): Google Earth historical imagery; ESRI World Imagery accessed 9/16/14
- [ ] or [x] Other (Name & Date): see file
- [ ] 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: Town Branch (1,472 linear feet) is a perennial stream that drains a significant portion of Fayetteville, Arkansas. Streams 1 (1,154 linear feet) and 2 (1,158 linear feet) are intermittent. Wetland 4 is 0.62 acres and directly abuts Stream 1. Wetland 3 is 0.17 acres and directly abuts Stream 2. Streams 3 (439 linear feet), 4 (175 linear feet), and 5 (197 linear feet) are ephemeral. Wetlands 1 (0.86 acres) and 2 (0.89 acres) are adjacent to and within the floodway of Town Branch. Wetland 5 (0.16 acres) is also adjacent to and within the floodway of Town Branch, and also abuts stream 4.

October 24, 2014

Lisa Boyle
Project Manager

Date