

**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):** February 28, 2022

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** CESWL-RD, Tara Ridge SWL-2022-00036

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Arkansas County/parish/borough: Benton City: Bentonville  
Center coordinates of site (lat/long in degree decimal format): Lat. 36.3330°, Long. -94.2153°  
Universal Transverse Mercator: NAD 83/UTM Zone 15, 4021580.67 Northing, 390918.94 Easting  
Name of nearest waterbody: Osage Creek  
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Illinois River (OK)  
Name of watershed or Hydrologic Unit Code (HUC): 11110103 (Illinois)

- ☒ 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: February 24, 2022  
☒ Field Determination. Date(s): February 9, 2022

**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 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):<sup>1</sup>**

- ☐ TNWs, including territorial seas  
☐ Wetlands adjacent to TNWs  
☒ Relatively Permanent Waters<sup>2</sup> (RPWs) that flow directly or indirectly into TNWs  
☐ Non-RPWs that flow directly or indirectly into TNWs  
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs  
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs  
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs  
☐ Impoundments of jurisdictional waters  
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-wetland waters: Intermittent channel 764 linear feet: 7 width (ft) and/or acres.  
Wetlands: acres.

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

Elevation of established OHWM (if known):

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  
Explain: A wetland delineation by Crafton Tull and a Corps site visit identified a man-made pond, a forested wetland, and a short reach of ephemeral channel. The pond, located in the southwestern portion of the subject property, was constructed in uplands. The forested wetland is geographically isolated and located north of the pond in the southwestern portion of the subject property. The ephemeral channel, located in the northwestern corner of the subject property,

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

<sup>2</sup> 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).

<sup>3</sup> Supporting documentation is presented in Section III.F.

exhibits a discontinuous OHWM and flows north/northeast entering a broad upland, with no hydrologic connection to regulated waters.

### **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<sup>4</sup> 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: 1,654 square miles

Drainage area: 46.6 square miles

Average annual rainfall: 47 inches

Average annual snowfall: 9.2 inches

###### **(ii) Physical Characteristics:**

###### **(a) Relationship with TNW:**

☐ Tributary flows directly into TNW.

☒ Tributary flows through 2 tributaries before entering TNW.

Project waters are 30 (or more) river miles from TNW.

Project waters are 1 (or less) river miles from RPW.

Project waters are 30 (or more) 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, waters do not cross or serve as state boundaries.

Identify flow route to TNW<sup>5</sup>: Tributary flows to Osage Creek, Osage Creek flows to Illinois River (TNW).

Tributary stream order, if known: Second Order

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

**Tributary is:** ☐ Natural

☐ Artificial (man-made). Explain:

<sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

<sup>5</sup> 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.

- ☒ Manipulated (man-altered). Explain: Intermittent channel has been channelized upstream and downstream of the subject property. Within the subject property, the channel is primarily natural, with some evidence of manipulation.

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

Average width: 7 feet

Average depth: 1.5 feet

Average side slopes: 2:1

**Primary tributary substrate composition (check all that apply):**

- |   |  |                                   |
|---|--|-----------------------------------|
| <input checked="" type="checkbox"/> Silts   | <input type="checkbox"/> Sands                     | <input type="checkbox"/> Concrete |
| <input checked="" type="checkbox"/> Cobbles | <input checked="" type="checkbox"/> Gravel         | <input type="checkbox"/> Muck     |
| <input type="checkbox"/> Bedrock            | <input type="checkbox"/> Vegetation. Type/% cover: |                                   |
| <input type="checkbox"/> Other. Explain:    |  |                                   |

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Tributary supports evidence of urban effects; including narrow riparian zone and eroded banks (in portions of reach).

Presence of run/riffle/pool complexes. Explain: The channel has been impacted by channelization; however, it exhibited riffle/pool morphology within the subject property.

Tributary geometry: Relatively Straight

Tributary gradient (approximate average slope): <0.02%

**(c) Flow:**

Tributary provides for: Seasonal Flow

Estimate average number of flow events in review area/year: 20 (or greater)

Describe flow regime: Based on site visit and aerial photography, channel supports seasonal intermittent flow.

Other information on duration and volume: No gage data or volume-specific information available; however, based on aerial photography the channel supports seasonal flow. Seasonal flow likely influenced by groundwater and urban runoff.

Surface flow is: Confined Characteristics: Channel exhibits steep banks with out-of-bank flooding likely rarely occurring.

Subsurface flow: Unknown Explain findings: Could have a groundwater component due to karst nature of general area.

- ☐ Dye (or other) test performed:

**Tributary has (check all that apply):**

- ☒ Bed and banks
- ☐ OHWM<sup>6</sup> (check all indicators that apply):
- |  |   |
|--|---|
| <input type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> the presence of litter and debris          |
| <input type="checkbox"/> changes in the character of soil          | <input type="checkbox"/> destruction of terrestrial vegetation      |
| <input type="checkbox"/> shelving                                  | <input type="checkbox"/> the presence of wrack line                 |
| <input type="checkbox"/> vegetation matted down, bent, or absent   | <input type="checkbox"/> sediment sorting                           |
| <input type="checkbox"/> leaf litter disturbed or washed away      | <input type="checkbox"/> scour                                      |
| <input type="checkbox"/> sediment deposition                       | <input type="checkbox"/> multiple observed or predicted flow events |
| <input type="checkbox"/> water staining                            | <input type="checkbox"/> abrupt change in plant community           |
| <input type="checkbox"/> other (list):                             |   |
- ☐ Discontinuous OHWM.<sup>7</sup> Explain:

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

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

**(iii) Chemical Characteristics:**

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):**

<sup>6</sup>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.

<sup>7</sup>Ibid.

- ☒ Riparian corridor. Characteristics (type, average width): Narrow forested riparian corridor within subject property (less than 50' width). Lacks riparian corridor upstream of subject property.
- ☒ Wetland fringe. Characteristics: Forested and emergent wetland borders portions of channel reach within subject property.
- ☒ Habitat for:
  - ☒ Federally Listed species. Explain findings: Forested riparian zone could support federally listed bats (as summer roosting habitat).
  - ☒ Fish/spawn areas. Explain findings: Potential for fish to occur in channel, due to seasonal flow. Possible species might include sunfish (*Lepomis* spp.) and mosquitofish (*Gambusia affinis*). A Great Blue Heron was observed foraging during the Corps site visit, further indicating the presence of a fish community.
  - ☒ Other environmentally-sensitive species. Explain findings: Riparian zone could support neotropical migrant birds that are state listed species of concern.
  - ☒ Aquatic/wildlife diversity. Explain findings: Semi-aquatic species (herpetofauna) likely utilize channel for foraging and breeding. Terrestrial species such as mammals (white-tail deer, raccoon, small mammals) likely utilize the area for travel corridor, foraging, and bedding. Birds likely use the area for foraging and roosting. During Corps site visit the following birds were observed: Red-Shouldered Hawk, Great Blue Heron, American Crow, and Barred Owl.

## 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 type. Explain:

Wetland quality. Explain:

Project wetlands cross or serve as state boundaries. Explain:

#### (b) General Flow Relationship with Non-TNW:

Flow is: Explain:

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 waters 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: Forested wetland, supporting 70-100% coverage. Species include:

☐ 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:

### 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:

### 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: Channel is mapped by USGS topographic quadrangle, NHD, and flow is evident on aerial photography (Google Earth 1994-2021). Corps site visit further confirmed seasonal status of channel, exhibiting well-defined bed/banks, a high volume of flow, and fishery community.

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

- ☒ Tributary waters: 764 linear feet 7 width (ft).
  - ☐ Other non-wetland waters: acres.
- Identify type(s) of waters:

3. **Non-RPWs<sup>8</sup> 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):

<sup>8</sup>See Footnote # 3.

☐ Tributary waters: linear feet width (ft).

☐ Other non-wetland waters: acres.

Identify type(s) of waters:

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

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

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

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

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

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

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

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

**7. Impoundments of jurisdictional waters.<sup>9</sup>**

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):<sup>10</sup>**

☐ 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).

<sup>9</sup> To complete the analysis, refer to the key in Section III.D.6 of the Instructional Guidebook.

<sup>10</sup> 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.

- ☒ Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain: The ephemeral channel is a short reach of channel that flows through the northwest portion of the subject property. Upon exiting the property, the channel loses definition and enters a broad upland.
- ☐ 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: 0.35 acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☒ Wetlands: 0.23 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): Ephemeral channel, 119 linear feet 1 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: Approved Jurisdictional Determination Request, Tara Ridge Development, Bentonville, AR by Crafton Tull dated January 18, 2022, and Revised Delineation dated February 22, 2022.
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- ☒ Office concurs with data sheets/delineation report. Concur with data sheets from Revised February 22, 2022 wetland delineation.
- ☐ 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: NHD maps provided by Crafton Tull in wetland delineation (January and February 2022); HUC 8: 11110103 and HUC 12: 111101030303
- ☒ USGS NHD data.
- ☒ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: Bentonville South, AR (1:24K).
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Soil Survey of Benton County, Arkansas (1977); maps of soil map units provided by Crafton Tull in wetland delineation.
- ☒ National wetlands inventory map(s). Cite name: NWI maps provided by Crafton Tull (February 2022).
- ☐ State/Local wetland inventory map(s):
- ☒ FEMA/FIRM maps: FEMA Flood Map Service Center, Panel 05007C0255K accessed on February 8, 2022.
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): Google Earth (1994-2021).
- ☐ or ☒ Other (Name & Date): Photos provided in Crafton Tull wetland delineation; Corps site visit (February 9, 2022).
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): Local climate data provided by Crafton Tull (January 2022) from National Weather Service.

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** A wetland delineation conducted by Crafton Tull (January 2022) and subsequent revised delineation completed in February 2022 identified a mapped, intermittent channel in the central portion of the subject property. This channel enters from the north and flows south before eventually entering Osage Creek (a mapped perennial channel). This channel, a RPW, would be regulated under Section 404 of the CWA as waters of the U.S. Crafton Tull also identified a man-made pond, forested wetland, and ephemeral channel that are all located in the western portion of the subject property. The man-made pond was constructed in uplands and is geographically isolated from waters of the U.S. The forested wetland, generally located north of the pond, is also isolated, located in surrounding uplands and lacking a hydrologic connection to waters of the U.S. The ephemeral channel, located in the northwest corner of the subject property, extends approximately 119 linear feet before exiting the northern boundary of the property. This channel, although impacted by development outside the property, flows north/northeast towards the previously mentioned intermittent channel; however, it enters a broad upland area several hundred feet before entering the intermittent channel. Aerial photography (Google Earth) illustrates the channel before development and shows the channel

entering the broad upland prior to impacts or urban influence. Therefore, the channel would not be regulated as a water of the U.S. due to lack of hydrologic connection and geographic isolation. A Corps site visit in February 2022 confirmed the findings provided by Crafton Tull.

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David Rupe  
Project Manager

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February 28, 2022  
Date