

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 4, 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CESWL-RD, Gaskill Subdivision SWL-2021-00333

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Missouri County/parish/borough: Jasper County City: Joplin

Center coordinates of site (lat/long in degree decimal format): Lat. 37.12433 °, Long. -94.50066°

Universal Transverse Mercator: NAD 83/UTM Zone 15, 4109718.8 Northing, 366690.4 Easting

Name of nearest waterbody: Center Creek

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

Name of watershed or Hydrologic Unit Code (HUC): 11070207 (Spring River)

- ☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
- ☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc....) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: January 7, 2022

☒ Field Determination. Date(s): December 14, 2021

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):¹

- ☐ TNWs, including territorial seas
- ☐ Wetlands adjacent to TNWs
- ☐ Relatively Permanent Waters² (RPWs) that flow directly or indirectly into TNWs
- ☒ Non-RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
- ☒ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- ☐ Impoundments of jurisdictional waters
- ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-wetland waters: DR01: 380 linear feet; 3 width (ft); DR02: 228 linear feet; 2 width (ft).

Wetlands: WET01-Pond: 0.38 acre; WET01-PEM: 0.16 acres; WET01-PFO: 0.53 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: Pond 2, located in the north-central portion of the subject property, was constructed in uplands. An ephemeral channel (DR03) exhibiting a discontinuous OHWM, enters the pond, however, the overflow from pond is broad and supports upland conditions with no observable channel immediately downstream of pond. DR04 is an ephemeral channel/upland swale that also lacks an OHWM. This feature begins near the south-central portion of the subject property and flows northwest, eventually terminating/dissipating into an upland flat. In addition, three erosional features (ER01, ER02, and ER03) were observed in the

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.

northern portion of the subject property. ER01 is an erosional feature that supports a short reach of an upland swale located between Pond 2 and WET01, upstream and disconnected from ephemeral channel DR02. ER02 is an erosional feature located near Pond 2 (the result of exposed, highly eroded soils and lack of vegetation). ER03 is an upland erosional feature observed east of DR03 (transitions to DR03).

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW

Identify TNW:

Summarize rationale supporting determination:

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is “adjacent”:

B. Characteristics of Tributary (That Is Not a TNW) and Its Adjacent Wetlands (If Any):

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

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

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

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

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

(i) General Area Conditions:

Watershed size: 2,271 square miles

Drainage area: 29.3 square miles

Average annual rainfall: 45 inches

Average annual snowfall: 9.6 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

☒ Tributary flows through 4 tributaries before entering TNW.

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

Project waters are 2-5 river miles from RPW.

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

Project waters are 2-5 aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW⁵: Tributary flows to an unnamed tributary to Center Creek, then to Center Creek, to Spring River, to Neosho River (TNW).

Tributary stream order, if known: First Order

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

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 is: ☒ Natural
☐ Artificial (man-made). Explain:
☐ Manipulated (man-altered). Explain:

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

Average width: DR01: 3 feet; DR02: 2 feet;
Average depth: DR01 0.5 feet; DR02: 0.25 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: DR01 and DR02 are moderately stable ephemeral channels, with forested riparian zones. Minimal erosion was noted.

Presence of run/riffle/pool complexes. Explain: Both reaches of channel (DR01 and DR02) are ephemeral, lacking water for a duration that would support a mixture of stream complexes.

Tributary geometry: Meandering

Tributary gradient (approximate average slope): 0.02 %

(c) **Flow:**

Tributary provides for: Ephemeral Flow

Estimate average number of flow events in review area/year: 11-20

Describe flow regime: Ephemeral channels DR01 and DR02 likely contribute ephemeral flow directly following storm events.

Other information on duration and volume: Channels are not mapped by NHD or topographic maps, further indicating ephemeral flow.

Surface flow is: Discrete and Confined **Characteristics:** Channel DR01 exits pond and adjacent wetland (WET01); ephemeral channel DR02 flows into WET01.

Subsurface flow: Unknown **Explain findings:**

☐ Dye (or other) test performed:

Tributary has (check all that apply):

☐ Bed and banks

☒ OHWM⁶ (check all indicators that apply):

<input checked="" type="checkbox"/> clear, natural line impressed on the bank	<input checked="" 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 checked="" type="checkbox"/> leaf litter disturbed or washed away	<input checked="" type="checkbox"/> scour
<input checked="" 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.⁷ 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:

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

⁷Ibid.

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

Explain: DR01 and DR02 were dry at time of consultant delineation and Corps site visit; however, due to the undeveloped headwater location and moderate sized riparian area, it is probable that the channels exhibit moderate water quality, likely transporting minor amounts of sediment loads.

Identify specific pollutants, if known: The drainage area is located generally in an undeveloped area of land use, although the subject property is utilized for hay production. Possible pollutants related to farming practices (petroleum, nutrients, etc.).

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

- ☒ Riparian corridor. Characteristics (type, average width): A moderately sized riparian corridor (approximately 50 feet in width) was observed along both reaches of channel, consisting of species such as Osage orange, American elm, green ash, hackberry, and other species common to the area.
- ☐ Wetland fringe. Characteristics:
- ☒ Habitat for:
 - ☒ Federally Listed species. Explain findings: Forested riparian area is potential roosting habitat for federally listed bats such as northern long-eared bat and Indiana bat.
 - ☐ Fish/spawn areas. Explain findings:
 - ☐ Other environmentally-sensitive species. Explain findings:
 - ☒ Aquatic/wildlife diversity. Explain findings: Riparian corridor would likely support a variety bird and mammals. The ephemeral channel unlikely supports aquatic species, but may support semi-aquatic species such as amphibians.

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: WET01- Pond: 0.38 acres; WET01 - PEM: 0.16 acres; WET01 - PFO: 0.51 acres.

Wetland type. Explain: WET 01-Pond consists of open-water man-made pond. WET01-PEM is an adjacent emergent wetland community, and WET01-PFO is an adjacent forested wetland community.

Wetland quality. Explain: The entire WET01 wetland complex totals approximately 1.05 acres, supporting a moderate diversity of trees and herbaceous hydrophytes. Moderate to good habitat for a diversity of wildlife and provides moderate flood storage.

Project wetlands cross or serve as state boundaries. Explain: No.

(b) General Flow Relationship with Non-TNW:

Flow is: Ephemeral Flow Explain: WET01 contributes water to abutting channel (DR01) during high water events and when water table is high.

Surface flow is: Discrete

Characteristics: WET01 abuts ephemeral channel DR01 and contributes to downstream hydrology during storm events and when water table is elevated.

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 30 (or more) river miles from TNW.

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

Flow is from: Wetland to Navigable Waters

Estimate approximate location of wetland as within the 500-year or greater 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: Water in WET01-Pond was slightly turbid at time of Corps field visit, however, overall water quality appeared good. Immediate watershed consists of undeveloped property adjacent to residential development, with possible minor impacts from residential area.

Identify specific pollutants, if known: No specific pollutants identified, however, potential for petroleum, nutrients, herbicides, and other pollutants from farming practices and adjacent residential areas.

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

- ☒ Riparian buffer. Characteristics (type, average width): Riparian/upland buffer approximately 20-30 feet located along WET01 complex.

- ☒ Vegetation type/percent cover. Explain: WET01-PFO consists of *Ulmus americana*, *Fraxinus pennsylvanica*, *Diospyros virginiana*, *Cephalanthus occidentalis*; WET01-PEM consists of *Carex* sp., *Persicaria* sp., etc.
- ☒ Habitat for:
 - ☒ Federally Listed species. Explain findings: Forested wetlands and adjacent riparian areas may support summer roosting habitat for federally listed bats such as Indiana bat and northern long-eared bat.
 - ☒ Fish/spawn areas. Explain findings: Open-water pond portion of WET01 likely supports a fish community consisting of sunfish (*Lepomis* sp.) and black bass (*Micropterus* sp.).
 - ☐ Other environmentally-sensitive species. Explain findings:
 - ☒ Aquatic/wildlife diversity. Explain findings: The entire wetland complex provides aquatic habitat for fish, amphibians, arthropods, birds, and mammals. The open-water pond may support migratory birds such as ducks and geese, especially during migration periods. Birds and mammals likely utilize the wetland complex for foraging, likely used by both aquatic, semi-aquatic, and terrestrial species.

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

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

Approximately (1.05) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
WET01 (Pond)	Yes	0.38		
WET01 (PFO)	Yes	0.51		
WET01 (PEM)	Yes	0.16		

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: DR01 and DR02, including adjacent wetlands (WET-01), support a direct hydrologic connection to TNWs. Adjacent wetlands (WET-01) function for reduction of flood capacity, sediment load, and pollutants to Spring River. The adjacent wetlands provide minor functions and values for fish, and likely higher value for aquatic life phases of amphibians. DR01 and DR02 support only ephemeral flow; however, they do provide a hydrologic connection between WET01 and TNW. These areas support minor nutrient transfer to downstream waters; adjacent wetlands support emergent and forested communities that likely provide minor functions in regard to denitrification.
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

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

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

2. RPWs that flow directly or indirectly into TNWs.

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

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

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

Identify type(s) of waters:

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

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

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

- ☒ Tributary waters: DR01: 380 linear feet 3 width (ft); DR02: 228 linear feet 2 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: WET01-Pond: 0.38 acres; WET01-PFO: 0.51 acres; WET01-PEM: 0.16 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).

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.

⁸See Footnote # 3.

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.

- ☐ 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: DR03 exhibits a discontinuous OHWM prior to entering Pond 2 and does not exit Pond 2. Channel DR04, best described as an upland swale, lacks an OHWM and terminates into a broad upland flat.
- ☒ Other: (explain, if not covered above): Erosional features ER01, ER02, and ER03 all lacked an OHWM and were located in uplands.

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: Pond 2: 0.71 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): DR03: 192 linear feet 2 width (ft); DR04: 815 linear feet 3 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: Preliminary Waters of the U.S. Assessment and Wetland Delineation: Proposed Gaskill Subdivision, Joplin, Jasper County, Missouri by Cattails Environmental, LLC dated November 2021.
- ☒ 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: HUC 8: 11070207 (Spring River), 110702070608 (Center Creek); NHD data accessed on National Regulatory Viewer (December 2021).
 - ☒ USGS NHD data.
 - ☒ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: Joplin West, MO (1:24K).
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Soil Survey of Jasper County, Missouri (2002); soil data also provided by Cattails Environmental, LLC in wetland delineation (November 2021).
- ☒ National wetlands inventory map(s). Cite name: Provided by Cattails Environmental, LLC in wetland delineation (November 2021).
- ☐ State/Local wetland inventory map(s):
- ☒ FEMA/FIRM maps: Accessed on National Regulatory Viewer on December 15, 2021.
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

- ☒ Photographs: ☒ Aerial (Name & Date): Google Earth (1994-2021); Aerial maps provided in wetland delineation (November 2021).
☐ or ☒ Other (Name & Date): Site photos provided in wetland delineation report by Cattails Environmental; Corps site visit (December 14, 2021).
☐ 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: A wetland delineation conducted by Cattails Environmental, LLC identified a wetland complex (WET01), consisting of an open-water pond, emergent wetlands, and forested wetlands totaling approximately 1.05 acres. The wetland delineation indicated an ephemeral channel (DR02) enters and ephemeral channel (DR01), both supporting an OHWM, exit the wetland complex, therefore creating a direct hydrologic connection between the wetland complex and downstream waters (the ephemeral channel is a tributary to Spring River). The Corps site visit conducted on December 14, 2021, confirmed these findings. Cattails Environmental also identified a man-made pond constructed in uplands (Pond 2), three erosional features (ER01, ER02, ER03) and two channels lacking an OHWM (DR03 and DR04). Erosional features (ER01-ER03) are located in uplands and support upland conditions. Channel DR03 enters Pond 2; however, there is no channel discharge outside the banks of the pond. Channel DR04 originates in uplands and eventually terminates in a broad upland area. Therefore, Pond 2, erosional features (ER01 through ER03), and channels (DR03 and DR04) lack a hydrologic connection to regulated waters, thereby representing isolated waters that would not be regulated as “waters of the United States”.

David Rupe
Project Manager

February 4, 2022
Date