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): August 18, 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CESWL-RD, Old Ridge Place SWL-2022-00216

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Arkansas County/parish/borough: Benton City: Rogers
Center coordinates of site (lat/long in degree decimal format): Lat. 36.2696°, Long. -94.1524°
Universal Transverse Mercator: NAD 83/UTM Zone 15, 4014459.9 Northing, 396481.3 Easting
Name of nearest waterbody: Osage Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Illinois River (Oklahoma)
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: August 15, 2022
☑ Field Determination. Date(s): August 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 "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. ***[Required]***

1. Waters of the U.S.
a. Indicate presence of waters of U.S. in review area (check all that apply): [1]

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

b. Identify (estimate) size of waters of the U.S. in the review area:
Non-wetland waters: 660 linear feet: 3 width (ft) and/or acres; Pond 1: 0.89 acre.
Wetlands: Wetland 1: 0.23 acre; Wetland 2: 0.32 acre.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual

Elevation of established OHWM (if known):

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

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

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

[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.

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: 757.7 square miles
   Drainage area: 815.5 acres

   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 3 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: Project waters do not cross state boundaries.

   Identify flow route to TNW[5]: Channel flows to tributary to Osage Creek, then to Osage Creek, to Illinois River (Illinois River becomes a TNW in Oklahoma).
   Tributary stream order, if known: 1st Order

   (b) General Tributary Characteristics (check all that apply):
   Tributary is: ☐ Natural
   ☐ Artificial (man-made). Explain:
   ☑ Manipulated (man-altered). Explain: Channel has been moved/relocated and channelize to the west of original location (at some time in past).

   Tributary properties with respect to top of bank (estimate):
   Average width: 3 feet
   Average depth: 0.3 feet

[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.

Average side slopes: 2:1

Primary tributary substrate composition (check all that apply):

☑ Silts	☐ Sands	☐ Concrete
☑ Cobbles	☐ Gravel	☐ Muck
☐ Bedrock	☑ Vegetation. Type/% cover: Herbaceous hydrophytes/15%	
☐ Other. Explain:		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Tributary represents a channelized feature with low banks and relatively low gradient.
Presence of run/riffle/pool complexes. Explain: Ephemeral channelized feature generally lacking run/riffle/pools.
Tributary geometry: Relatively Straight
Tributary gradient (approximate average slope): <0.5%

(c) Flow:

Tributary provides for: Ephemeral Flow
Estimate average number of flow events in review area/year: 11-20
Describe flow regime: Ephemeral flow resulting from direct precipitation and sheet flow.
Other information on duration and volume: A review of historic aerial photography suggest ephemeral flow in response to storm events.
Surface flow is: Discrete and Confined Characteristics: Channelized feature with low banks that abuts wetland/pond features.
Subsurface flow: Unknown Explain findings: Based on a site visit and available data, channel appears to lack a groundwater influence.

☐ Dye (or other) test performed:

Tributary has (check all that apply):

☐ Bed and banks

☑ OHWM[6] (check all indicators that apply):

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

☐ Discontinuous OHWM.[7] Explain:

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

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

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: Watershed is located in urban setting; due to ephemeral nature of channel (dry at time of site visit), no observation was made of water condition. Flow likely supports turbid water with poor to moderate water quality due to response to storm events within an urban setting.
Identify specific pollutants, if known: No known pollutants, potential pollutants would include nutrients, increased sediment, herbicides, hydrocarbons and other pollutants associated with urban and suburban development.

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

☑ Riparian corridor. Characteristics (type, average width): Approximately 5-10 feet in width; forested and early successional (depending on reach).

☐ Wetland fringe. Characteristics:

[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.

☑ Habitat for:

☑ Federally Listed species. Explain findings: A few trees within the riparian corridor could support summer roosting habitat for federally listed bats, i.e., northern long-eared bat and/or Indiana bat.

☐ Fish/spawn areas. Explain findings:

☐ Other environmentally-sensitive species. Explain findings:

☑ Aquatic/wildlife diversity. Explain findings: Poor quality habitat for semiaquatic species such as amphibians and possibly invertebrates (crayfish). Small mammals and birds likely utilize the narrow riparian corridor and channel for foraging.

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: Wetland 1: 0.23 acre; Wetland 2: 0.32 acre

Wetland type. Explain: Palustrine emergent wetlands.

Wetland quality. Explain: Generally low quality consisting of a swale and a depression that both abut a man-made pond.

Wetland community consists of rushes, sedges, and additional herbaceous hydrophytes.

Project wetlands cross or serve as state boundaries. Explain: No, wetlands do not cross or serve state boundaries.

(b) General Flow Relationship with Non-TNW:

Flow is: Ephemeral Flow Explain: Wetlands abut man-made pond and ephemeral ditch, contributing flow during storm events and shortly thereafter.

Surface flow is: Discrete

Characteristics: Wetlands abut non-RPW and contribute surface flow during storm events.

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: Wetlands abut a non-RPW (Tributary 1) that flows to an intermittent channel (RPW) approximately 0.5 miles north of the subject property.

☐ 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: Limited surface water, however, small area of standing water that was observed was slightly turbid. Watershed is located in urban and suburban area with impervious storm runoff. Generally, somewhat impaired water quality due to urban conditions.

Identify specific pollutants, if known: No known pollutants, although increased nutrients and presence of hydrocarbons would be expected from urban and suburban setting.

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

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

☑ Vegetation type/percent cover. Explain: Rushes (*Juncus* spp.), Caric sedges (*Carex* sp.), and smartweed (*Persicaria* spp.) dominated the herbaceous wetland community, totaling approximately 80-100% cover.

☑ Habitat for:

☐ Federally Listed species. Explain findings:

☐ Fish/spawn areas. Explain findings:

☐ Other environmentally-sensitive species. Explain findings:

☑ Aquatic/wildlife diversity. Explain findings: The emergent wetlands provide habitat for amphibians, crayfish, and insects, especially during the wet season. Small mammals and bird likely utilize the area for foraging; during the Corps site visit a Great Egret was observed foraging in the man-made pond near its connection with Wetland 1.

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

All wetland(s) being considered in the cumulative analysis: 2

Approximately (0.55) 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)
Wetland 1	No	0.23		
Wetland 2	No	0.32		

Summarize overall biological, chemical and physical functions being performed: The wetlands provide a moderately diverse and functional community that supports aquatic and semi-aquatic species. The wetlands are hydrologically connected to an ephemeral tributary to Osage Creek and provide nutrient transfer to downstream watershed features. They also serve to provide flood storage and nutrient storage within the watershed.

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: Tributary 1, mapped by NHD, has been channelized and redirected along the western boundary of the subject property. The channel supports ephemeral flow and supports indicators of an OHWM. Wetland 1 is swale feature that flows northwest into a man-made farm pond (Pond 1) that directly abuts Tributary 1. Wetland 2 abuts both the man-made pond and Tributary 1. The wetland features and man-made pond provide flood storage and reduce pollutants within the watershed. The man-made pond supports a fish community that is connected to downstream waters during flow events. Both the pond and wetlands support habitat for amphibians and aquatic insects. Downstream contribution of nutrients and organic carbon would be expected during storm and shortly following storm events. In summary, Wetland 1, Wetland 2, and Pond 1 are directly hydrologically connected to Tributary 1 (an ephemeral channel with an OHWM) and contribute a physical, chemical, and biological to Illinois River (TNW).

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-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: Tributary 1: 660 linear feet 3 width (ft).

☑ Other non-wetland waters: 0.89 acre.
Identify type(s) of waters: man-made pond (Pond 1)

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 jurisidictional. 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: Wetland 1: 0.23 acre; Wetland 2: 32 acre.

7. Impoundments of jurisdictional waters.[9]

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

☐ Demonstrate that impoundment was created from "waters of the U.S.," or

☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or

☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]

☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.

☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

☐ which are or could be used for industrial purposes by industries in interstate commerce.

☐ Interstate isolated waters. Explain:

☐ Other factors. Explain:

Identify water body and summarize rationale supporting determination:

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

☐ Tributary waters: linear feet width (ft).

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

☐ Wetlands: acres.

[8]See 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.*

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.

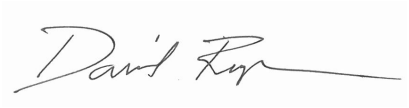
SECTION IV: DATA SOURCES.

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: Approved Jurisdictional Determination Request 6388 South Old Ridge Place, Rogers, Arkansas by Crafton Tull dated May 6, 2022.
- ☑ 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: 11110103; HUC 12: 111101030303. NHD data accessed on National Regulatory Viewer (NRV).
  - ☑ 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). Soil data also provided by Crafton Tull in wetland delineation report.
- ☑ National wetlands inventory map(s). Cite name: NWI map layers accessed on NRV and provided by Crafton Tull in wetland delineation report.
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Photographs: ☑ Aerial (Name & Date): Google Earth (1994-2021); Aerial maps provided by Crafton Tull in wetland delineation.
- ☐ or ☑ Other (Name & Date): Site photos provided by Crafton Tull.
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☑ Other information (please specify): Corps site visit on August 9, 2022.

B. ADDITIONAL COMMENTS TO SUPPORT JD: A wetland delineation by Crafton Tull identified a man-made pond (Pond 1), two emergent wetlands (Wetland 1 and 2), and a channelized ephemeral channel (Tributary 1) supporting an OHWM (located along the western boundary of the subject property). Crafton Tull's wetland delineation suggested the aquatic features lacked a significant nexus to downstream TNWs. A Corps site visit indicates the aquatic features support a significant nexus via Tributary 1. Wetland 1, a swale supporting palustrine emergent wetland communities, flows northeast from the southern property boundary and abuts Pond 1. Wetland 2, an emergent wetland

depression, abuts the western/northwestern boundary of Pond 1 and directly abuts Tributary 1. Tributary 1 flows north from the subject property and enters an intermittent tributary to Osage Creek, which flows to Osage Creek (a perennial tributary to Illinois River). Therefore, Wetland 1, Wetland 2, and Pond 1 area all support a discrete hydrologic connection to a downstream TNW (Illinois River) via Tributary 1.



August 18, 2022

David Rupe
Project Manager

Date