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): November 21, 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: SWT-2013-00196

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State:OK County/parish/borough: Cherokee City: Tahlequah
Center coordinates of site (lat/long in degree decimal format): Lat. 35.963267° **N**, Long. -94.979308° **E**.
Universal Transverse Mercator: 15
Name of nearest waterbody: Double Spring Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Illinois River
Name of watershed or Hydrologic Unit Code (HUC): 11110103
☒ 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: October 12, 2022
☒ Field Determination. Date(s): August 18, 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):** [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: 12,236 linear feet: 4 width (ft) and/or 5.822 acres.
      Wetlands: 0.433 acres.

   c. **Limits (boundaries) of jurisdiction** based on: **1987 Delineation Manual**
      Elevation of established OHWM (if known): .

2. **Non-regulated waters/wetlands (check if applicable):**[3]
   ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain: **There are 22 ponds that were identified within the review area. The ponds (stock tanks) were excavated in the uplands and are identified by OW-1 (0.429 acre), OW-2 (0.198 ac), OW-3 (0.023 ac), OW-4 (0.136 ac), OW-8 (0.12 ac),**

[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.

OW-10 (0.233 ac), OW-11 (0.102 ac), OW-12 (0.4 ac), OW-13 (0.127 ac), OW-14 (0.34 ac), OW-15 (0.218 ac), OW-16 (0.061 ac), OW-17 (0.076 ac), OW-18 (0.087 ac), OW-19 (0.295 ac), OW-20 (0.537 ac), OW-21 (0.354 ac), OW-22 (0.159 ac), OW-23 (0.023 ac), OW-24 (0.217 ac) and OW-25 (0.19 ac). The wetland area W-3 (0.155 ac) is connected to a ditch that was constructed as a drainage feature for construction of the U.S. 62 bypass project.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW
Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW
Summarize rationale supporting conclusion that wetland is "adjacent": .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

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

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

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

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

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

(i) General Area Conditions:
Watershed size: 756, 310**acres**
Drainage area: 246, 608 **acres**
Average annual rainfall: 46.9 inches
Average annual snowfall: 8.6 inches

(ii) Physical Characteristics:
(a) Relationship with TNW:
☒ Tributary flows directly into TNW.
☐ Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **5-10** river miles from TNW.
Project waters are **2-5** river miles from RPW.
Project waters are **5-10** aerial (straight) miles from TNW.
Project waters are **2-5** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: .

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Identify flow route to TNW[5]: Double Spring Creek and Fourteenmile Creek and is unnamed tributaries flow into Fort Gibson Lake (Neosho River), a TNW. The unnamed tributaries of the Illionois Rver discharging into the Illionois River, a TNW.
Tributary stream order, if known: 3.

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: The stream channel has been manipulated by agricultural (farm) practices and are waters of the United States (S-3, S-4, S-5, S-8, S-9, S-12 and S-13). S-11 has been manipulated by stormwater management systems are now drainage ditches wich are still waters of the United States).

Tributary properties with respect to top of bank (estimate):
Average width: 3 feet
Average depth: 2 feet
Average side slopes: **3:1 .**

Primary tributary substrate composition (check all that apply):

☒ Silts	☐ Sands	☐ Concrete
☒ Cobbles	☒ Gravel	☐ Muck
☐ Bedrock	☐ Vegetation. Type/% cover:	
☐ Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: The stream channels are relatively stable.
Presence of run/riffle/pool complexes. Explain: There are no riffle and pool complexes within the segement of the stream channels.
Tributary geometry: **Relatively straight**
Tributary gradient (approximate average slope): 2 %

(c) Flow:
Tributary provides for: **Intermittent but not seasonal flow**
Estimate average number of flow events in review area/year: **11-20**
Describe flow regime: Annular.
Other information on duration and volume: Mesonet, Cherokee County, OK.

Surface flow is: **Discrete.** Characteristics: .

Subsurface flow: **No**. Explain findings: .
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☒ Bed and banks
☒ OHWM[6] (check all indicators that apply):

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

☐ Discontinuous OHWM.[7] Explain: .

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):	

[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.
[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.

(iii) Chemical Characteristics:

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

Explain: The water color was clear and the water quality was good. The general watershed characteristics are good with a dense riparian corridor.

Identify specific pollutants, if known: None.

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

☒ Riparian corridor. Characteristics (type, average width): The riparian corridor is intact on both side of the channel.
☒ Wetland fringe. Characteristics: W-1 (0.246 ac) and W-2 (0.032 ac).
☐ Habitat for:
☐ Federally Listed species. Explain findings: .
☒ Fish/spawn areas. Explain findings: Fourteen Creek FS-1 (0.356 ac) and FS-2 (2.655 ac); unnamed tributary of Fourteenmile Creek S-3 (0.10 ac) and S-4 (0.27 ac); unnamed tributary of Double Spring Creek S-5 (0.103 ac) and S-12 (0.08 ac); Double Spring Creek S-6 (0.487 ac) and S-7 (1.149 ac); unnamed tributary of Double Spring Creek S-8 (0.065 ac) and S-9 (0.04 ac) Tahlequah Creek S-10 (0.501 ac); unnamed tributuary of Tahlequah Creek (0.155 ac). The stream channel has springs. The water levels were low due to drought in the area. OW-5 (0.033 ac), OW-6 (0.122 ac), OW-7 (0.078 ac) and OW-9 2.402 ac are on channel ponds that are jurisdictional (waters of the United States).
☒ Other environmentally-sensitive species. Explain findings: Fourteen Mile Creek (High Quality Waters) and Tahlequah Creek (Outstanding Resources Waters).
☒ Aquatic/wildlife diversity. Explain findings: The stream channels does support aquatic envirionment and wildlife diversity.

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: acres
Wetland type. Explain: .
Wetland quality. Explain: .
Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:
Flow is: **Pick List**. Explain: .

Surface flow is**: Pick List**
Characteristics: .

Subsurface flow: **Pick List**. 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 **Pick List** river miles from TNW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Flow is from: **Pick List.**
Estimate approximate location of wetland as within the **Pick List** 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: .
☐ 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: **Pick List**
Approximately (0.433) 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)
W-1 N	0.246	W-2 N	0.032
W-3 N	0.155		

Summarize overall biological, chemical and physical functions being performed: W-1, W-2, and W-3 has wetland functions are beneficial for plants, animal species, water purification, soil with nutrients for plants and groundwater recharge and stream flow maintenance was evaluated for wetland function but it is outside of the project boundary.

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: 1. The unnamed tributaries S-1 (0.356 ac), S-3 (0.10 ac), S-4 (0.277 ac), and S-5 (0.103 ac) flow into S-2 (2.655 ac) Fourteenmile Creek. The unnamed tributaries S-8 (0.065 ac), S-9 (0.201 ac), and S-12 (0.08 ac) flows into S-6 (0.487 ac), S-7 (1.149 ac) Double Spring Creek. The unnamed tributary of Pecan Creek S-13 (0.06 ac) flows into Pecan Creek and discharges into Ranger Creek that flows into the Grand Neosho River (Lake Fort Gibson). Fourteenmile Creek and Double Spring Creek discharges into the Grand Neosho River, TNW (Lake Fort Gibson). The unnamed tributary of S-11 (0.155 ac) flows into S-10 (0.501 ac) Tahlequah Creek. Tahlequah Creek flows into Illinois River, TNW. The unnamed tributaries (S-11) and (S-13) are ephemeral streams and flow in response to storm events. The intermittent stream channels have the potential to carry pollutants due to proximity of the Pecan Creek, Ranger Creek, Fourteenmile Creek (S-2), and Double Spring Creek (S-6), RPWs which discharges into the Grand Neosho River, a TNW. S-11 is an intermittent stream channel that has been ditched to address stormwater management system that potential to carry pollutants due to proximity of the Tahlequah Creek (S-10). The stream channels also has the potential to transfer nutrients and organ carbons to downstream food webs during rain events to the TNW. This segment of stream channel collects and transports water and sediment, and provides nutrient cycling, sediment retention, filtration which would improve water quality of the TNW.

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: The emergent wetlands (W-1) are connected to S-3 unnamed tributary of Fourteenmile Creek (S-2). The forested wetlands (W-2) are connected to the unnamed tributary of S-5 and discharges into S-2.

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: Fourteenmile Creek (S-2), Double Spring Creek (S-6), Tahlequah Creek (S-10), Pecan Creek (S-13), a RPW are jurisdictional and flows daily. The intermintent stream channel has native fish that migrate through the aquatic system.
   - ☒ 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: A few of the unnamed tributaries of Fourteenmile Creek (S-2), Double Spring Creek (S-6), Tahlequah Creek (S-10) has continous seasonal flow also has conditions for movement of some fish species within the reach of the stream channels.

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☒ Tributary waters: **6,913** linear feet **32** width (ft).
   - ☒ Other non-wetland waters: **0** acres.
     Identify type(s) of waters: **S-2 (Fourteenmile Creek), S-6 and S-7 (Double Spring Creek), and S-10 (Tahlequah Creek)**.

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: **7,524** linear feet **5** width (ft).
   - ☒ Other non-wetland waters: acres.
     Identify type(s) of waters: **S-1 (0.356 ac), S-3 (0.10 ac), S-4 (0.277 ac), S-8 (0.065 ac), S-9 (0.04 ac) S-11 (0.155 ac) has been impacted by stormwater management drainage system, S-12 (0.08 ac) and S-13 (0.06 ac). S-12 and S-13 has been manipulated by agricultural practices (2 width feet). Some of the stream channels in this area have spring-fed streams.**

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: **0.278** acres.

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

[8]See Footnote # 3.

☐ 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.[9]

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

☒ Demonstrate that impoundment was created from "waters of the U.S.," or
☒ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

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

☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

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

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

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

☒ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
☒ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: **There are 22 ponds that were identified within the review area. The ponds (stock tanks) were excavated in the uplands and are identified by OW-1, OW-2, OW-3, OW-4, OW-8, OW-9, OW-10, OW-11, OW-12, OW-13, OW-14, OW-15, OW-16, OW-17, OW-18, OW-19, OW-20, OW-21, OW-22, OW-23, OW-24, and OW-25 are stock tanks are not regulated by jurisdiction. There is one wetland area that was identified within the review area. W-3 this area was connected in a ditch and is not water of the United States.**
☐ 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: 4.325 acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☒ Wetlands: 1.55 acres.

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[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

[10] Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.*

SECTION IV: DATA SOURCES.

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

☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Mr. Adam Roberts and Mr. Brandon Hall, HDR, Inc. March 19, 2019.

☒ 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: S-12(unnamed tributary of Double Spring Creek) and S-13 (Pecan Creek) are epemeral stream channels was not identified on the delineation report.

☐ Corps navigable waters' study: .

☒ U.S. Geological Survey Hydrologic Atlas: ORM Maps for Arkansas-White-Red Region 11110103.

☐ USGS NHD data.

☒ USGS 8 and 12 digit HUC maps.

☒ U.S. Geological Survey map(s). Cite scale & quad name: Thompson Corner, OK.

☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .

☒ National wetlands inventory map(s). Cite name: ORM Database and Thompson Corner, OK.

☐ State/Local wetland inventory map(s): .

☐ FEMA/FIRM maps: .

☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)

☐ Photographs: ☐ Aerial (Name & Date): .

or ☐ Other (Name & Date): .

☐ Previous determination(s). File no. and date of response letter: .

☐ Applicable/supporting case law: .

☐ Applicable/supporting scientific literature: .

☒ Other information (please specify): Due to the vacatur and remanding of the Navigable Water Protection Rule by the U.S. District Court for the District of Arizona on August 30, 2021. The Corps was directed on September 2, 2021, by the Acting Assistant Secretary of the Army for Civil Works to resume conducting AJDs nationwide, consistent with the pre-2015 waters of the U.S. (WOTUS) regulatory regime.

B. ADDITIONAL COMMENTS TO SUPPORT JD: The jurisdictional "waters of the United States" are stream channels, on-channel ponds, and wetlands that flows into the unnamed tributary of Fourteenmile Creek, unnamed tributary of Double Spring Creek, unnamed tributary of the Pecan Creek, and the unnamed tributary of Tahlequah Creek ultimately flows into the Grand Neosho River and the Illinois River, a TNW.