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): 21 April 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: SWT-2020-00223

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Oklahoma County/parish/borough: Wagoner City: Broken Arrow
Center coordinates of site (lat/long in degree decimal format): Lat. 36.0274° **N**, Long. 95.7105° **W**.
Universal Transverse Mercator:
Name of nearest waterbody: Adams Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Verdigris River Name of watershed or Hydrologic Unit Code (HUC): 110701050303
☒ 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: 13 April 2022
☒ Field Determination. Date(s): 26 May 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 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: 690 linear feet: 10 width (ft) and/or 0.12 acres.
      Wetlands: 2.28 acres.

   c. **Limits (boundaries) of jurisdiction** based on: **Established by OHWM.**
      Elevation of established OHWM (if known): N/A.

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: **4 ephemeral, erosional features, FS-1 (169 lf), FS-2 (103 lf), FS-9 (137 lf), and FS-10 (110 lf), were assessed within the review area and were determined to be non-jurisdictional**.

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW
Identify TNW: .

Summarize rationale supporting determination: .

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

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

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

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

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

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

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

(i) General Area Conditions:
Watershed size: 39,687 **acres**
Drainage area: 62 **acres**
Average annual rainfall: 44.77 inches
Average annual snowfall: 8.1 inches

(ii) Physical Characteristics:
(a) Relationship with TNW:
☐ Tributary flows directly into TNW.
☒ Tributary flows through **3** tributaries before entering TNW.

Project waters are **15-20** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **5-10** 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: .

[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]: The unnamed tributaries (FS-8, 338 lf), (FS-3a, 129 lf), (FS-3b, 126 lf), (FS-3a, 97lf) within the review area flow into an unnamed tributary of Adams Creek which flows into Adams Creek which flows into the Verdigris River, a Traditionally Navigable Water (TNW).
Tributary stream order, if known: .

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☐ Natural
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: The stream channel was realigned by a previous land owner without prior CWA authorization.

Tributary properties with respect to top of bank (estimate):
Average width: 7.5 feet
Average depth: 10 feet
Average side slopes: **3:1 .**

Primary tributary substrate composition (check all that apply):

☒ Silts	☒ Sands	☐ Concrete
☐ Cobbles	☒ Gravel	☐ Muck
☒ Bedrock	☒ Vegetation. Type/% cover: Herbaceous/Shrub 40%	
☐ Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Portions of the stream are stable and heavily vegetated. Areas where prior manipulation has occurred are eroded and lack vegatation.
Presence of run/riffle/pool complexes. Explain: Beaver dams were present within the stream channel creating areas where pooling has occured.
Tributary geometry: **Relatively straight**
Tributary gradient (approximate average slope): 1-3 %

(c) Flow:
Tributary provides for: **Seasonal flow**
Estimate average number of flow events in review area/year: **11-20**
Describe flow regime: Flow occurs seasonally, fed by rain events, run-off, and a pond located upstream of the review area. The channel retains water due to beaver dams within the stream channel for several months and was flowing during a May 2021 site visit.
Other information on duration and volume: .

Surface flow is: **Confined.** Characteristics: Surface flow is confined to the stream channel where it occurs naturally and areas where it has been manipulated by past construction activity.

Subsurface flow: **Unknown**. Explain findings: N/A.
☐ 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;

[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.

☐ 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: The stream channel exhibited fairly clear water color and a majority of the channels were vegetated with natural vegetation. Pollutants from an abutting residential development and roadway likely enter the stream channel by way of surface runoff.

Identify specific pollutants, if known: .

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

☐ Riparian corridor. Characteristics (type, average width): .
☐ Wetland fringe. Characteristics: .
☒ Habitat for:
☐ Federally Listed species. Explain findings: .
☐ Fish/spawn areas. Explain findings: .
☐ Other environmentally-sensitive species. Explain findings: .
☒ Aquatic/wildlife diversity. Explain findings: The stream channels within the review area, likely provide habitat for birds, small mammals, reptiles, and amphibians. Small fishes could potentially enter the stream channels within the review area by way of overflow from an upstream impoundment, but none were observed during a field investigation.

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: 2.28 acres

Wetland type. Explain: The review area consists of 2 adjacent wetlands. FS-5 is a forested wetland 0.06 acre in size and FS-7 is a forested wetland 0.01 acre in size.

Wetland quality. Explain: FS-5 and FS-7 are fully functioning wetlands, providing habitat for wildlife, reptiles and amphibians adjacent to FS-8, a Non-RPW approximately 338 lf and FS-3b, an RPW approximately 126 linear feet in length.

Project wetlands cross or serve as state boundaries. Explain: N/A.

(b) General Flow Relationship with Non-TNW:

Flow is: **Ephemeral flow**. Explain: Flow from FS-5 and FS-7 is likely ephemeral and only occurs during and immediately after a rain event.

Surface flow is**: Overland sheetflow**

Characteristics: A defined channel was not observed between FS-5 or FS-7 and the nearest jurisdictional RPW or Non-RPW.

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: FS-5 is located approximately 30 yards from FS-3a, a jurisdictional RPW within the review area. FS-5 likely provides shelter and habitat for small mammal, birds, reptiles, and amphibians. FS-7 is located approximately 20 yards from FS-8, a jurisdictional Non-RPW within the review area. FS-7 likely exhibits the same ecological characteristics to the jurisdictional stream channel as FS-8.
☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **15-20** river miles from TNW.
Project waters are **5-10** aerial (straight) miles from TNW.
Flow is from: **No Flow.**
Estimate approximate location of wetland as within the **50 - 100-year** 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 color is clear. Pollutants from agricultural spraying, residential lawn treatment, and road surface run-off may enter FS-5 and FS-7 by way of overland flow during rain events.

Identify specific pollutants, if known: .

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

☒ Riparian buffer. Characteristics (type, average width): FS-5 and FS-7 have a woody riparian buffer of approximately 5-10 feet surrounding the wetland features.
☒ Vegetation type/percent cover. Explain: Native herbaceous cover present in approximately 25-30% of FS-5 and FS-7.
☒ Habitat for:
☐ Federally Listed species. Explain findings: .
☐ Fish/spawn areas. Explain findings: .
☐ Other environmentally-sensitive species. Explain findings: .
☒ Aquatic/wildlife diversity. Explain findings: Both FS-5 and FS-7 likely provide shelter and habitat for small mammals, birds, reptiles, and amphibians, conveying an important ecological connection to adjacent Non-RPWs and RPWs.

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

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

Approximately (0.07) 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)
N	0.06	N	0.01

Summarize overall biological, chemical and physical functions being performed: The subject wetlands act as a small catchment area for pollutants carried via rainfall toward the adjacent tributaries. Sediments and attached nutrients, pollutants, and/or other elements become deposited and captured within the wetlands, as opposed to flowing directly to the tributary in question and ultimately to the Verdigris River.

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: The adjacent wetland (FS-7) acts as a small catchment area for sediment carried via storm water toward the adjacent Non-RPW (FS-8). Sediment and attached nutrients, pollutants, and/or other elements become deposited and captured within the wetland, as opposed to flowing directly to the Non-RPW in question and ultimately to the Verdigris River. Because this wetland is located in close physical proximity to roads, the potential for storm water to carry urban pollutants is high. Wetlands have been documented as having the capability of providing a long-term sink for nutrients present within waste, pesticides and fertilizers, primarily through their biogeochemical cycling (Walbridge and Lockaby 1994, Axt and Walbridge 1999). Due to this function, wetlands have long been termed the "kidneys of the landscape", due to their capacity to assist with pollutant filtration (Mitsch and Gosselink 2000). Because of the wetland's fluctuating hydrologic conditions, it hosts a variety of organisms dependent upon this type of system. Given that the wetland is located in an urban environment, it provides habitat for a variety of species also adapted to this type of area. The wetland has the capacity to physically affect the conditions of the adjacent tributary through it's ability to store storm water in times of heavy rain events. Grass and leaf litter, and other organic materials also assist with slowing the flow of water and aiding with trapping sediments. By reducing the volume and velocity of storm water entering the abutting tributary, the wetland may minimize the erosive forces of the storm water. By reducing the volume and velocity of flow, erosion potentials decrease and sediment transport downstream becomes minimized. This affects Adams Creek, and subsequently the Verdigris River, by reducing sediment input and erosion within these waters

Walbridge, M.R. and B.G. Lockaby. 1994. Effects of forest management on biogeochemical functions in southern forested wetlands. Wetlands 14:10-17.
Axt, J.R., and M.R. Walbridge. 1999. Phosphate removal capacity of palustrine forested wetlands and adjacent uplands in Virginia. Soil Science Society of American Journal 63:1019-1031
Mitsch, W.J. and J.G. Gosselink. 2000. Wetlands. John Wiley and Sons, Inc. New York, New York.

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: The adjacent wetland (FS-5) acts as a small catchment area for sediment carried via storm water toward the adjacent tributary. Sediment and attached nutrients, pollutants, and/or other elements become deposited and captured within the wetland, as opposed to flowing directly to the tributary in question and ultimately to the Verdigris River. Because this wetland is located in close physical proximity to roads, the potential for storm water to carry urban pollutants is high. Wetlands have been documented as having the capability of providing a long-term sink for nutrients present within waste, pesticides and fertilizers, primarily through their biogeochemical cycling (Walbridge and Lockaby 1994, Axt and Walbridge 1999). Due to this function, wetlands have long been termed the "kidneys of the landscape", due to their capacity to assist with pollutant filtration (Mitsch and Gosselink 2000). Because of the wetland's fluctuating hydrologic conditions, it hosts a variety of organisms dependent upon this type of system. Given that the wetland is located in an urban environment, it provides habitat for a variety of species also adapted to this type of area. The wetland has the capacity to physically affect the conditions of the adjacent tributary through it's ability to store storm water in times of heavy rain events. Grass and leaf litter, and other organic materials also assist with slowing the flow of water and aiding with trapping sediments. By reducing the volume and velocity of storm water entering the abutting tributary, the wetland may minimize the erosive forces of the storm water. By reducing the volume and velocity of flow, erosion potentials decrease and sediment transport downstream becomes minimized. This affects Adams Creek, and subsequently the Verdigris River, by reducing sediment input and erosion within these waters

Walbridge, M.R. and B.G. Lockaby. 1994. Effects of forest management on biogeochemical functions in southern forested wetlands. Wetlands 14:10-17.
Axt, J.R., and M.R. Walbridge. 1999. Phosphate removal capacity of palustrine forested wetlands and adjacent uplands in Virginia. Soil Science Society of American Journal 63:1019-1031
Mitsch, W.J. and J.G. Gosselink. 2000. Wetlands. John Wiley and Sons, Inc. New York, New York.

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: FS-3a (129 lf), FS-3b (126 lf), and FS-3c (97 lf) all convey seasonal flow to the downstream TNW. This is evident by numerous recorded rain events, observed flow in various aerial imagery, and site investigations conducted by the applicant's hired consultant and Regulatory Staff.

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☒ Tributary waters: **352** linear feet **10** 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: **338** linear feet **3** 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: **.**

[8]See Footnote # 3.

☒ 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: FS-4 (0.70 ac), FS-6 (0.02 ac), and FS-11 (1.49 ac), are located on channel of a jurisdictional RPW that conveys seasonal flow aross the property through RPWs FS-3a, FS-3b, and FS-3c. The jurisdictional RPWs flow offsite into an unnamed tributary of Adams Creek.

Provide acreage estimates for jurisdictional wetlands in the review area: **2.21** 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: **0.06** 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: **0.01** 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: **.**
☒ Other: (explain, if not covered above): **FS-1, FS-2, FS-9, and FS-10, as referenced in Section II Part B-2, were determined to be erosional features of the landscape that do not exhibit the characteristics of a jurisdictional RPW or Non-RPW.**

[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.*

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: Wetland and Waterway Delineation Associated with the Ashbrook III Development.
☒ 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: 110701050303.
  ☒ USGS NHD data.
  ☒ USGS 8 and 12 digit HUC maps.
☒ U.S. Geological Survey map(s). Cite scale & quad name: USGS 7.5 Minute Oneta, OK Quadrangle.
☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
☒ National wetlands inventory map(s). Cite name: NWI Wetlands Mapper.
☐ State/Local wetland inventory map(s): .
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): Google Earth & Digital Globe 1995-2022 .
  or ☒ Other (Name & Date): Applicant supplied delineation and 26 May 2021 Site Visit.
☒ Previous determination(s). File no. and date of response letter: SWT-2020-00223, 2 June 2021.
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☒ Other information (please specify): An AJD was originally completed for this project site under the Navigable Waters Protection Rule on 2 June 2021.

B. ADDITIONAL COMMENTS TO SUPPORT JD: The review area is comprised of 1 Non-RPW (FS-8 338 lf), 3 RPWs (FS-3a 129 lf), (FS-3b 126lf), (FS-3c 97lf), 2 jurisdictional, adjacent wetlands (FS-5 0.05ac) and (FS-7 0.01 ac) and 3 wetlands that are directly abutting an RPW (FS-4 0.70 ac), (FS-6 0.02ac), and (FS-11 1.49ac). 4 non-jurisdictional, erosional features were observed within the review area to include: (FS-1 169lf), (FS-2 103lf), (FS-9 137lf), and (FS-10 110lf).