

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): December 5, 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: SWT-2021-00208

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Oklahoma County/parish/borough: Oklahoma County City: Oklahoma City
Center coordinates of site (lat/long in degree decimal format): Lat. 35.384431° **Pick List**, Long. -97.467982° **Pick List**.

Universal Transverse Mercator: 14

Name of nearest waterbody: Unnamed Tributary of Crooked Oak Creek

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

Name of watershed or Hydrologic Unit Code (HUC): 111003020105

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: December 5, 2022

Field Determination. Date(s): October 27, 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 waters² (RPWs) that flow directly or indirectly into TNWs

Non-RPWs that flow directly or indirectly into TNWs

Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs

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

Impoundments of jurisdictional waters

Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-wetland waters: linear feet: width (ft) and/or PUB2, Jurisdictional Farm Pond, 4.73 acres;

PUB13, Jurisdictional Relatively Permanent Water, 0.097 acre;

R4SB1a, Jurisdictional Relatively Permanent Water, 0.144 acre;

R4SB1b, Jurisdictional Relatively Permanent Water, 0.125 acres.

Wetlands: acres.

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

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:

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.

PEM1-1, Non-jurisdictional Isolated Wetland (0.012 acre);
PEM1-2, Non-jurisdictional Isolated Wetland (0.175 acre);
R6SB1, Non-jurisdictional Upland Drainage Feature (0.051 acre);
R6SB2, Non-jurisdictional Upland Drainage Feature (0.045 acre);
R6SB3, Non-jurisdictional Upland Drainage Feature (0.092 acre);
R6SB4, Non-jurisdictional Upland Drainage Feature (0.021 acre);
PUB1, Non-jurisdictional Farm Pond (1.179 acres);
PUB3, Non-jurisdictional Farm Pond (5.654 acres);
PUB4, Non-jurisdictional Farm Pond (1.253 acres);
PUB5, Non-jurisdictional Farm Pond (1.41 acres);
PUB6, Non-jurisdictional Farm Pond (4.687 acres);
PUB7, Non-jurisdictional Farm Pond (0.369 acres);
PUB8, Non-jurisdictional Farm Pond (0.599 acres);
PUB9, Non-jurisdictional Farm Pond (4.082 acres).

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW

Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is “adjacent”:

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

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

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

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

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

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

(i) General Area Conditions:

Watershed size: 20,926 acres

Drainage area: R4SB1a & R4SB1b, 150 acres; PUB2 & PUB13, 160 acres

Average annual rainfall: 36.21 inches

Average annual snowfall: 7 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: N/A.

Identify flow route to TNW⁵: Unnamed tributary of Crooked Oak Creek, Crooked Oak Creek, North Canadian River, North Canadian River subject to Section 10 River and Harbors Act of 1899 (TNW).

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

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

Tributary stream order, if known: 1.

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

Tributary is: Natural
 Artificial (man-made). Explain: .
 Manipulated (man-altered). Explain: R4SB1b has been channelized as a roadside ditch. PUB2 is

an impoundment of a stream channel/on-channel farm pond. PUB13 is a portion of a stream channel located immediately upstream of a road culvert and immediately downstream the PUB2 impoundment.

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

Average width: R4SB1a 12 feet; R4SB1b 6 feet, tributary associated with PUB2 & PUB13, 6 feet

Average depth: 2 feet

Average side slopes: **2:1**.

Primary tributary substrate composition (check all that apply):

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

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Erosion is occurring; resulting in sediment within the tributary.

Presence of run/riffle/pool complexes. Explain: N/A.

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): 2 %

(c) Flow:

Tributary provides for: **Seasonal flow**

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

Describe flow regime: Flow occurs seasonally and during/after rainfall events.

Other information on duration and volume: .

Surface flow is: **Confined**. Characteristics: Flow generally occurs within the channel.

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

Dye (or other) test performed: .

Tributary has (check all that apply):

Bed and banks
 OHWM⁶ (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: PUB13 is a portion of a stream channel located immediately upstream of a road culvert and immediately downstream the PUB2 impoundment resulting in discontinuous OHWM.

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: Erosion is occurring; resulting in sediment within the tributary/discolored water.

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

⁷Ibid.

Identify specific pollutants, if known: Sediment.

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

- Riparian corridor. Characteristics (type, average width): The offsite portion of the RPW reach associated with PUB2 & PUB13 has a forested riparian corridor encompassing approximately 50 feet on each side of the channel.
- 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 channel provides habitat supporting aquatic/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 () acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N) Size (in acres) Directly abuts? (Y/N) Size (in acres)

Summarize overall biological, chemical and physical functions being performed:

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
4. Significant nexus findings for seasonal RPW that has no adjacent wetlands and flows directly or indirectly into TNWs: The intermittent tributary (R4SB1a and R4SB1b) drains approximately 150 acres and the intermittent tributary associated with PUB2 and PUB13 drains approximately 160 acres. These tributaries provide storage and filtration seasonally and during precipitation events. It has been determined that these unnamed intermittent seasonal Relatively Permanent Waters (seasonal-RPWs) possess hydrologic connectivity to the North Canadian River (Traditional Navigable Water) into which they indirectly flow. Hydrologic connectivity refers to the flow that transports organic matter and nutrients, energy, and aquatic organisms throughout the system (Freeman et al. 2006). Evidence of this connection and, consequently, a significant nexus is supported by the observations and scientific literature in the following paragraphs.

Solid organic matter (OM), such as leaves and other detrital material, is processed by a feeding group referred to as "shredders", which includes crayfish, larvae of crane flies, caddisflies, and nymphs of stoneflies. Shredders break down this coarse material, and allow the material to be utilized by a secondary group known as "collectors". Collectors further process the OM and produce dissolved OM and fine particulate matter, which flow downstream. Generally, as the solid OM identified on the subject property is processed and translocated downstream, so are the microorganisms and invertebrates which utilize the material (Smith and Smith 2001). As such, headwater tributaries like these intermittent streams represent the base of the food chain and, therefore, comprise one of the most important components of a watershed (Meyer et al. 2007). That is, the diversity of aquatic fauna in these headwater

streams contributes to the biodiversity of Crooked Oak Creek and the North Canadian River by fitting into the complex foodweb of the river basin.

Furthermore, the frequency of major rainfall events in the watershed results in pulsating hydrology, which sustains the local waterways, and subsequently, the North Canadian River system. This influences the chemistry of the North Canadian River basin via the transport of sediments and nutrients and geochemical cycling which occur during these pulses. Various pollutants are likely present since these streams are located in close proximity to roads. Typical pollutants, such as oil, become suspended in storm water and, without adequate filtration, are transported downstream. After water is conveyed through the tributary, drying occurs in the headwater stream. This process of drying produces natural chemical and physical changes in the headwater stream. According to Izbicki (2007), even while headwater streams are drying, they remain an integral part of the overall stream because of this influence on the chemistry of the river downstream.

Finally, headwater streams, such as the subject tributaries, have been documented as providing necessary habitat for birds, mammals, reptiles, and amphibian populations (Meyer 2007). The small catchment area of headwater streams results in some of the most diverse habitats within a lotic system. Since the channel is greatly affected by precipitation events, the physical and chemical state of the stream changes rapidly and frequently which allows the habitat to be utilized by a large variety of species. Headwater streams are utilized not only by species which are unique to headwater streams, but also by animals which depend on such an environment for certain stages of their life cycles and those which migrate between headwater environments and larger waters. These seasonal-RPWs possess a hydrologic connection to Crooked Oak Creek and, subsequently, to the North Canadian River through an open and defined channel. Due to this hydrologic connection, intermittent tributary (R4SB1a and R4SB1b) and the intermittent tributary associated with PUB2 and PUB13 have the capacity to contribute hydrology, carry pollutants, provide habitat for aquatic life cycles, and provide food in the form of organic matter to waters downstream, all of which illustrates that these seasonal-RPWs possess a significant nexus to Crooked Oak Creek and the North Canadian River.

LITERATURE CITED:

Freeman, M. C., C. M. Pringle, and C. R. Jackson. 2007. Hydrologic Connectivity and the Contribution of Stream Headwaters to Ecological Integrity at Regional Scales. *Journal of the American Water Resources Association*. 43: 5-14.

Izbicki, J. A. 2007. Physical and Temporal Isolation of Mountain Headwater Streams in the Western Mojave Desert, Southern California. *Journal of the American Water Resources Association*. 43: 26-40.

Meyer, J. L., D. L. Strayer, J. B. Wallace, S. L. Eggert, G. S. Helfman, and N. E. Leonard. 2007. The Contribution of Headwater Streams to Biodiversity in River Networks. *Journal of the American Water Resources Association*. 43: 86-103.

Smith, R. L. and T. M. Smith. 2001. *Ecology and Field Biology*. Benjamin Cummings, New York. Pp. 644-650.

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: Flow occurs seasonally and during/after rainfall events. Upstream ponds contribute sheetflow to intermittent tributary (R4SB1a and R4SB1b) and PUB2/PUB13.

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

Tributary waters: **R4SB1a, 443 linear feet; R4SB1b, 907 linear feet; PUB13, 72 linear feet R4SB1a, 12 feet; R4SB1b, 6 feet; PUB13, 6 width (ft).**
 Other non-wetland waters: **PUB2, Jurisdictional Farm Pond, 4.73 acres.**
Identify type(s) of waters: **On-channel farm pond.**

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

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

⁸See Footnote # 3.

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

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

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

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
 Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .
 Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.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.

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):

PEM1-1, Non-jurisdictional Isolated Wetland (0.012 acre) - These wetlands, which are not adjacent to any jurisdictional waters, are isolated due to surrounding uplands.

PEM1-2, Non-jurisdictional Isolated Wetland (0.175 acre) - These wetlands, which are not adjacent to any jurisdictional waters, are isolated due to surrounding uplands.

R6SB1, Non-jurisdictional Upland Drainage Feature (0.051 acre) - This upland drainage feature is characteristic of a vegetated upland swale with sheetflow.

R6SB2, Non-jurisdictional Upland Drainage Feature (0.045 acre) - This upland drainage feature is characteristic of a vegetated upland swale with sheetflow.

R6SB3, Non-jurisdictional Upland Drainage Feature (0.092 acre) - This upland drainage feature is characteristic of a vegetated upland swale with sheetflow.

R6SB4, Non-jurisdictional Upland Drainage Feature (0.021 acre) - This upland drainage feature is characteristic of a vegetated upland swale with sheetflow.

PUB1, Non-jurisdictional Farm Pond (1.179 acres) - This farm pond, which is not adjacent to any jurisdictional waters and exhibits sheetflow outflow characteristics, is isolated due to surrounding uplands.

PUB3, Non-jurisdictional Farm Pond (5.654 acres) - This farm pond, which is not adjacent to any jurisdictional waters and exhibits sheetflow outflow characteristics, is isolated due to surrounding uplands.

PUB4, Non-jurisdictional Farm Pond (1.253 acres) - This farm pond, which is not adjacent to any jurisdictional waters and exhibits sheetflow outflow characteristics, is isolated due to surrounding uplands.

PUB5, Non-jurisdictional Farm Pond (1.41 acres) - This farm pond, which is not adjacent to any jurisdictional waters and exhibits sheetflow outflow characteristics, is isolated due to surrounding uplands.

PUB6, Non-jurisdictional Farm Pond (4.687 acres) - This farm pond, which is not adjacent to any jurisdictional waters and exhibits sheetflow outflow characteristics, is isolated due to surrounding uplands.

PUB7, Non-jurisdictional Farm Pond (0.369 acres) - This farm pond, which is not adjacent to any jurisdictional waters and exhibits sheetflow outflow characteristics, is isolated due to surrounding uplands.

PUB8, Non-jurisdictional Farm Pond (0.599 acres) - This farm pond, which is not adjacent to any jurisdictional waters and exhibits sheetflow outflow characteristics, is isolated due to surrounding uplands.

PUB9, Non-jurisdictional Farm Pond (4.082 acres) - This farm pond, which is not adjacent to any jurisdictional waters and exhibits sheetflow outflow characteristics, is isolated due to surrounding uplands.

The Midwest City, Okla., 1:24,000 Topographic Quadrangle depicts stream channels downgradient of PUB3, Non-jurisdictional Farm Pond and PUB8, Non-jurisdictional Farm Pond respectively. However, the current physical conditions on the site at these locations, with the exception of jurisdictional channels R4SB1a and R4SB1b, are characteristic of non-jurisdictional upland swales.

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:

PUB1, Non-jurisdictional Farm Pond, 1.179 acres
PUB3, Non-jurisdictional Farm Pond, 5.654 acres
PUB4, Non-jurisdictional Farm Pond, 1.253 acres
PUB5, Non-jurisdictional Farm Pond, 1.41 acres
PUB6, Non-jurisdictional Farm Pond, 4.687 acres
PUB7, Non-jurisdictional Farm Pond, 0.369 acres
PUB8, Non-jurisdictional Farm Pond, 0.599 acres
PUB9, Non-jurisdictional Farm Pond, 4.082 acres.

- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: PEM1-1, Non-jurisdictional Isolated Wetland, 0.012 acres;
PEM1-2, Non-jurisdictional Isolated Wetland, 0.175 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: Blackbird Environmental, LLC, Lentic and Lotic Waterbody and Wetland Delineation Study, May 18, 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: .
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Midwest City, Okla., 1:24,000 Topographic Quadrangle; <https://ngmdb.usgs.gov/topoview/viewer/#12/35.3846/-97.4681>.
- USDA Natural Resources Conservation Service Soil Survey. Citation: <https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>.
- National wetlands inventory map(s). Cite name: <https://www.fws.gov/program/national-wetlands-inventory/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 Aerial Imagery (1990-2022).
or Other (Name & Date): .
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: See above citations.
- Other information (please specify): https://climate.ok.gov/county_climate/Products/QuickFacts/oklahoma.pdf.

B. ADDITIONAL COMMENTS TO SUPPORT JD: .