



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): March 4, 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: SWT-2022-029

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Texas County/parish/borough: Grayson County City: Sherman
Center coordinates of site (lat/long in degree decimal format): Lat. 33.678153 ° **N**,
Long. -96.61513 ° **W**.

Universal Transverse Mercator: Click here to enter text.

Name of nearest waterbody: East Fork of Post Oak Creek

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

Name of watershed or Hydrologic Unit Code (HUC): 111401010102

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: February 18, 2022

Field Determination. Date(s): [Click here to enter a date.](#)

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **are and are not** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

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

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs

Non-RPWs that flow directly or indirectly into TNWs

Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

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

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

Impoundments of jurisdictional waters

Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-wetland waters: (S-2, 283 LF) (S-3, 904 LF) (S-4, 450 LF) (S-5, 71 LF) linear feet: width (ft) and/or (P-2, 0.087 AC) (P-3, 0.011 AC) acres.

Wetlands: (W-2, 0.167 AC) (W-3, 0.049 AC) acres.

c. Limits (boundaries) of jurisdiction based on: **Pick List**

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: **The review area contains an isolated wetland (W-1, 0.449 AC), one upland excavated pond (P-1, 0.011 AC), and an ephemeral stream (S-1, 610 LF) which does not have a significant nexus to a TNW.**

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 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: 22365.529 **acres**

Drainage area: 250 **acres**

Average annual rainfall: 42.2 inches

Average annual snowfall: 1.2 inches

(ii) **Physical Characteristics:**

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through **2** 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 **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: N/A.

Identify flow route to TNW⁵: The Unnamed Tributary of Post Oak Creek (S-2) (S-8) (S-9) flows into Post Oak Creek, then into Choctaw Creek, and then into the Red River (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: (S-2) (S-8) (S-9) are segments of the same overall unnamed tributary to Post Oak Creek, which this reach of the tributary is best characterized as a 2nd order stream at the most downgradient point before the tributary leaves the review area.

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

- Tributary is:** Natural
 Artificial (man-made). Explain: .
 Manipulated (man-altered). Explain: .

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

Average width: 7 feet
 Average depth: 3 feet
 Average side slopes: **2:1**.

Primary tributary substrate composition (check all that apply):

- | | | |
|---|--|-----------------------------------|
| <input checked="" type="checkbox"/> Silts | <input type="checkbox"/> Sands | <input type="checkbox"/> Concrete |
| <input checked="" type="checkbox"/> Cobbles | <input checked="" type="checkbox"/> Gravel | <input type="checkbox"/> Muck |
| <input type="checkbox"/> Bedrock | <input type="checkbox"/> Vegetation. Type/% cover: | |
| <input type="checkbox"/> Other. Explain: . | | |

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Based on the aquatic resource report, the tributary (S-2/S-8) appears to have experienced greater erosion near higher segment (S-2) of the review area, and becomes more stable further down the tributary (S-8).

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

Tributary geometry: **Meandering**

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: **20 (or greater)**

Describe flow regime: The unnamed tributary (S-2/S-8) is best described as intermittent, which would likely flow during direct rain events as well as sustained seasonal flows during the wetter periods of the year.

Other information on duration and volume: N/A.

Surface flow is: **Confined**. Characteristics: Several site photos from the report depict the tributary as having well-formed bed and banks, flows are most likely contained within the channel during typical rain events.

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

- Dye (or other) test performed: .

Tributary has (check all that apply):

- | | |
|--|--|
| <input checked="" type="checkbox"/> Bed and banks | |
| <input checked="" type="checkbox"/> OHWM ⁶ (check all indicators that apply): | |
| <input type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> the presence of litter and debris |
| <input type="checkbox"/> changes in the character of soil | <input checked="" type="checkbox"/> destruction of terrestrial vegetation |
| <input checked="" type="checkbox"/> shelving | <input checked="" type="checkbox"/> the presence of wrack line |
| <input type="checkbox"/> vegetation matted down, bent, or absent | <input checked="" type="checkbox"/> sediment sorting |
| <input type="checkbox"/> leaf litter disturbed or washed away | <input type="checkbox"/> scour |
| <input type="checkbox"/> sediment deposition | <input checked="" type="checkbox"/> multiple observed or predicted flow events |
| <input type="checkbox"/> water staining | <input type="checkbox"/> abrupt change in plant community |
| <input type="checkbox"/> other (list): | |
| <input type="checkbox"/> Discontinuous OHWM. ⁷ Explain: . | |

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

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

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.

(iii) Chemical Characteristics:

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

Explain: Based on aquatic report photos, the tributary has relatively clear water with a slight brown stain to it due to suspended sediment. There is no indication of low water quality, the stream receives stormwater runoff from several residential developments within the drainage area.

Identify specific pollutants, if known: There are no known pollutants, however, it is reasonable that common residential pollutants are present.

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

Riparian corridor. Characteristics (type, average width): Both segments (S-2/S-8) are contained within a riparian corridor, which is predominantly forested.

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: This tributary and its associated riparian corridor are anticipated to support wildlife habitat for a variety of animals and plants.

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 (W-2, 0.167 AC) (W-3, 0.049 AC) acres

Wetland type. Explain: The two wetlands that are adjacent to the ephemeral unnamed tributary are both characterized as palustrine forested wetlands.

Wetland quality. Explain: These two wetlands have no visible degradation, or influences to result in lower quality habitat, these features are best characterized as average quality.

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Ephemeral flow**. Explain: The two wetlands are both abutting an ephemeral unnamed tributary and are best characterized as having ephemeral flow.

Surface flow is: **Confined**

Characteristics: Both forested wetlands are directly connected to an ephemeral stream and likely any flow remains contained within the ordinary high-water mark throughout these features.

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

Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain:

Ecological connection. Explain:

Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

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

Project waters are **5-10** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters**.

Estimate approximate location of wetland as within the **100 - 500-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: No water was observed within the wetlands; however, the water quality is expected to be similar to the ephemeral stream that flows through these two wetlands.

Identify specific pollutants, if known: The drainage area is expected to contain common household pollutants.

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

Riparian buffer. Characteristics (type, average width): The two wetlands have an average riparian corridor approximately 75 linear feet wide along each side of these features, composed primarily of forested habitat.

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: These two forested wetlands are expected to provide suitable habitat for various aquatic species, which would support aquatic/wildlife diversity.

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

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

Approximately (0.216 AC) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
W-2, Y	0.167		
W-3, Y	0.049		

Summarize overall biological, chemical and physical functions being performed: These two forested wetlands are expected to aid in the filtering of common pollutants found in the drainage area. The wetlands may provide limited habitat for aquatic species during the wet period of the year. The wetlands provide other common benefits associated with wetland habitats for this drainage area.

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: The review area contains an NRPW (S-1, 610 LF). This unmapped tributary is best characterized as an ephemeral headwater. This feature is not depicted as a blue line feature on the USGS Topographic map. This feature has been determined as exhibiting ephemeral flow based on the limited frequency and volume of flow anticipated from the 4-acre drainage area. This stream is not expected to have ground water influence due to the landscape setting (headwater). The review area is comprised of residential homes, and a riparian corridor along the stream. This stream does not have any associated wetlands; however, it does have a riparian corridor throughout the review area. This stream is not expected to perform a range of ecological functions based on a lack of in-stream habitat complexity and a well-developed riparian corridor. This stream provides only limited benefits to the nearest RPW (unnamed tributary to Post Oak Creek), and these functions/benefits do not equate to more than a speculative or insubstantial benefit to the Red River (TNW), which is approximately 35 river miles from these waters. This NRPW does not meet the SigNex standard set within the Rapanos Guidance document and is supported within the agent's delineation report as well as this form.
- 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 review area contains an NRPW, which is comprised of several segments separated by on-channel ponds and wetlands (S-3, 904 LF). This unmapped tributary is best characterized as an ephemeral headwater. This feature is not depicted as a blue line feature on the USGS Topographic map. This feature has been determined as exhibiting ephemeral flow based on the limited frequency and volume of flow anticipated from the 10-acre drainage area. This stream may have limited ground water influence due to the ponds and wetlands and associated riparian corridor. The review area is comprised of residential homes, and a riparian corridor along the stream. The stream has two forested wetlands (W-2, 0.167 AC) (W-3, 0.049 AC) situated directly within the bed/banks. The wetlands have been determined to provide limited habitat for aquatic organisms during the wettest time of year. The stream, wetlands, and ponds provide filtering of any associated pollutants within the drainage area. This stream likely performs a limited suite of ecological functions based on in-stream habitat complexity and a well-developed riparian corridor. This stream provides limited benefits to the nearest RPW (unnamed tributary to Post Oak Creek), and these functions/benefits equate to more than a speculative or insubstantial benefit to the Red River (TNW), which is approximately

35 river miles from these waters. This NRPW and wetlands meet the SigNex standard set within the Rapanos Guidance document and is supported within the agent's delineation report as well as this form.

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

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

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

2. **RPWs that flow directly or indirectly into TNWs.**

- Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
 Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: The unnamed tributary of Post Oak Creek (S-2 and S-8).

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

- Tributary waters: (S-2, 283 LF) (S-8, 450 LF) (S-9, 71 LF) linear feet (S-2, 5 LF) (S-8, 10 LF) (S-9, 4 LF) width (ft).
 Other non-wetland waters: acres.

Identify type(s) of waters:

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

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

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

- Tributary waters: (S-3, 904 LF) linear feet (S-3, 3 LF) width (ft).
 Other non-wetland waters: (P-2, 0.087 AC) (P-3, 0.011 AC) acres.

Identify type(s) of waters: Two on-channel ponds of an NRPW.

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: 0.216 AC acres.

⁸See Footnote # 3.

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). The review area contains one emergent wetland (W-1, 0.449 AC) which is not adjacent to any associated waters of the U.S.
- Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain: The non-mapped ephemeral stream (S-1, 610 LF) was determined to not meet the SigNex standard.
- Other: (explain, if not covered above): An upland constructed pond (P-1, 0.011 AC) constructed near the top of the drainage area.

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: (W-1, 0.449 AC) 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: Sherman 21.799 Acre Tract Wetland Delineation Report.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.

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.

- 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: ORM Data Accessed February 22, 2022.
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Sherman TX, 1:24,000.
- USDA Natural Resources Conservation Service Soil Survey. Citation: ORM Data Accessed February 22, 2022.
- National wetlands inventory map(s). Cite name: ORM Data Accessed February 22, 2022.
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: 750 (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Google Earth Pro, Dated December 2019.
or Other (Name & Date): Site photos from agent report dated February 1, 2020.
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: The review area is approximately 22 acres.