

**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): 8 FEB 2022**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: SWT-2021-00469**

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: OK County/parish/borough: Cleveland County City: Noble  
Center coordinates of site (lat/long in degree decimal format): Lat. 35.137081° N, Long. -97.382495° W

Universal Transverse Mercator:

Name of nearest waterbody: Bell Creek

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

Name of watershed or Hydrologic Unit Code (HUC): 1109020203

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: January 14, 2022

Field Determination. Date(s): January 13, 2022

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There **Pick List** "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 **Pick List** "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):<sup>1</sup>**

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters<sup>2</sup> (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: EDF-1- 1,115 linear feet: 7 width (ft) and/or 0.18 acre, EDF-2- 1,430 linear feet: 10 width (ft) and/or 0.33 acre, R4SB-1- 1,404 linear feet: 12 width (ft) and/or 0.39 acres.

Wetlands: 0 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):<sup>3</sup>**

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

Explain: **Within the review area, PUB-1 and PUB-2 were determined to be livestock watering ponds that were constructed/excavated entirely within the uplands for farming purposes.**

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> 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).

<sup>3</sup> 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<sup>4</sup> 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: 320.99 square miles

Drainage area: 700 acres

Average annual rainfall: 37.29 inches

Average annual snowfall: 6.8 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through 2 tributaries before entering TNW.

Project waters are 10-15 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 TNW<sup>5</sup>: EDF-1 (unnamed tributary of Bell Creek) and R4SB-1 (unnamed tributary of Bell Creek) flow into EDF-2/Bell Creek which flows into the Canadian River, a Section 10 Traditionally Navigable Water (TNW).

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

<sup>5</sup> 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: 2.

(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: 10 feet  
Average depth: 2.5 feet  
Average side slopes: **2:1**.

**Primary tributary substrate composition (check all that apply):**

Silts  Sands  Concrete  
 Cobbles  Gravel  Muck  
 Bedrock  Vegetation. Type/% cover: Herbacious/30%  
 Other. Explain:

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Tributaries were in stable condition with no highly eroding or sloughing banks being noticed.

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

Tributary geometry: **Meandering**

Tributary gradient (approximate average slope): 0-3 %

(c) Flow:

Tributary provides for: **Seasonal flow**

Estimate average number of flow events in review area/year: **11-20**

Describe flow regime: During the site visit, EDF-2/Bell Creek exhibited a small amount of flowing water that would best be described as intermittent or seasonal flow. Signs of intermittent or greater flow were also observed within R4SB-1. This consisted of large pools of water and water stained trees/vegetation. EDF-1 was observed to have a discernable bed and bank with a flow regime that is best described as ephemeral with it exhibiting flow during and immediately following rain events.

Other information on duration and volume: EDF-2 and R4SB-1 are best described as seasonal/relatively permanent stream channels. EDF-1 is best described as an ephemeral/non-relatively permanent stream channel.

Surface flow is: **Confined**. Characteristics: Most flow is contained within the defined stream channels that were delineated within the review area (EDF-1, EDF-2, and R4SB-1).

Subsurface flow: **Unknown**. Explain findings:

Dye (or other) test performed:

Tributary has (check all that apply):

Bed and banks  
 OHWM<sup>6</sup> (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.<sup>7</sup> Explain:

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

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

<sup>6</sup>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.

<sup>7</sup>Ibid.

**(iii) Chemical Characteristics:**

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

Explain: Water color was stained red within an observed pool of R4SB-1 that is likely due to the red clay substrate.

Flowing water was also observed to be cloudy within EDF-2. No flowing or pooled water was observed within EDF-1.

Identify specific pollutants, if known: .

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

- Riparian corridor. Characteristics (type, average width): Riparian with herbaceous understory, 40ft.
- 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 streams identified within the review area are utilized by wildlife

species such as deer, hogs, turkeys, and other mammalian species. They are also used by various aquatic and amphibious vertebrates such as snakes, frogs, lizards, and salamanders as well as aquatic invertebrates that support these populations.

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: The subject tributary, EDF-1, provides storage and filtration during precipitation events. It has been determined that the tributary possesses a hydrologic connectivity to the Canadian River (Traditional Navigable Water) into which it indirectly flows. 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 observations and scientific literature. Solid OM, such as leaves and other detrital material, is processed by a feeding group referred to as "shredders", which includes crayfish, larvae of craneflies, 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 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 this headwater stream contributes to the biodiversity of the 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 Canadian River system. This influences the chemistry of the Canadian River basin via the transport of sediments and nutrients and geochemical cycling which occur during these pulses. Various pollutants are likely present since this stream is located in close proximity to a developed area. 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 tributary, 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 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. The subject tributary possesses a hydrologic connection to the Canadian River through an open and defined channel. Due to

this hydrologic connection, EDF-1 has 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 EDF-1 possesses a significant nexus to the 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.

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:

**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: EDF-2 (Bell Creek) and R4SB-1 are mapped on USGS Topographic, NHD, and USFWS NWI Maps as being intermittent stream channels. During the site visit, EDF-2 was observed to have a defined bed and bank and distinguishable OHWM. EDF-2/Bell Creek was also observed to have flowing water during the site visit. R4SB-1 was observed to have large pools of water and showed signs that it experienced intermittent flow. R4SB-1 was also noted to be flowing during the time of the applicant provided wetlands and waters delineation.

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

- Tributary waters: **EDF-2- 1,430 linear feet: 10 width (ft), R4SB-1- 1,404 linear feet 12 width (ft).**  
 Other non-wetland waters: acres.  
Identify type(s) of waters:

3. **Non-RPWs<sup>8</sup> 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: **EDF-1- 1,115 linear feet 7 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.

<sup>8</sup>See Footnote # 3.

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.<sup>9</sup>**

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):<sup>10</sup>**

- 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): .

<sup>9</sup> To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

<sup>10</sup> 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: PUB-1: 0.629 acre, PUB-2: 0.708 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: Nationwide Permit No. 14 Preconstruction Notification Delineation.
- 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: Norman, OK (1:24,000).
- USDA Natural Resources Conservation Service Soil Survey. Citation:        .
- National wetlands inventory map(s). Cite name:USFWS NWI Map.
- State/Local wetland inventory map(s):        .
- FEMA/FIRM maps:        .
- 100-year Floodplain Elevation is:        (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date):Google Earth 1995-2020.  
or  Other (Name & Date):        .
- Previous determination(s). File no. and date of response letter:        .
- Applicable/supporting case law:        .
- Applicable/supporting scientific literature:        .
- Other information (please specify):USGS Stream Stats, Oklahoma Climatological Survey.

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** The review area is approximately 48 acres and contains three jurisdictional lotic waterbodies (EDF-1, EDF-2/Bell Creek, and R4SB-1) and two non-jurisdictional lentic waterbodies (PUB-1 and PUB-2) that are livestock watering ponds that were constructed in the uplands.