

**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): 8/12/2022**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: NASHVILLE DISTRICT, Spangler Farm, LRN-2022-00557**

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

State: TN County/parish/borough: Hamilton City: Signal Mountain  
Center coordinates of site (lat/long in degree decimal format): Lat. 35.114034° N, Long. -85.248254° W.  
Universal Transverse Mercator: 16

Name of nearest waterbody: Boston Branch

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

Name of watershed or Hydrologic Unit Code (HUC): Upper North Chickamauga Creek, Tennessee River HUC12 - 060200010501

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: 8/12/2022

Field Determination. Date(s): 8/9/2022

**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: linear feet: width (ft) and/or acres.

Wetlands: acres.

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

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: **One (1) upland drainage feature (UDF), one (1) ephemeral channel (S6), six (6) isolated wetlands (WD, WE, WG, WH, WI, and WK), and two (2) ponds (PE and PK) were verified via a site visit conducted on 8/9/2022 and a desktop review including aerial imagery and LIDAR on 8/12/2022. See further explanations below.**

<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.

UDF is an upland drainage feature that flows for approximately 70 linear feet through the review area. UDF is located southwest and downslope of WH, WI, and S6. UDF has a weakly defined channel lacking OHWM features for approximately 70 linear feet before terminating into overland sheet flow upslope of WE and PE. Regulatory Guidance Letter (RGL) 05-05 provides guidance for identifying the ordinary high water mark (OHWM) by identifying reasonably reliable characteristics that indicate regular or frequent flow events, including destruction of terrestrial vegetation, wracking, sediment sorting, leaf litter disturbed or washed away, bed and bank, etc. During the site visit on August 9, 2022, UDF did not have a defined bed and bank, and lacked the presence of another consistent OHWM features. Throughout the channel, there was an abundance of leaf litter from the previous year, as well as terrestrial vegetation growing on the channel bottom. There was also an absence of wracking, sorting, scour, deposition, and change in substrate that would suggest the channel conveys water of a regular and frequency necessary for it to be considered a WoUS. The USACE considers UDF a non-tributary and not jurisdictional under Section 404 of the Clean Water Act as defined by 33 CFR Part 328.3.

S6 is an ephemeral stream that flows for approximately 249 linear feet through the review area before terminating into WI, where no known connection to a TNW is known. S6 does not drain directly or indirectly to any waters of the United States and does not support a link to interstate or foreign commerce, because it is not known to be used by interstate or foreign travelers for recreation or other purposes; does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce and is not known to be used for industrial purposes by industries in interstate commerce. The USACE considers S6 a nontributary and not jurisdictional under Section 404 of the Clean Water Act as defined by 33 CFR Part 328.3.

WD is a 0.28 acre PEM depressional wetland that was created within NRCS-mapped non-hydric soil series. Based on aerial imagery and surrounding landscape use, WD was constructed as an upland pond sometime between 1983 and 1997. WD has converted to a PEM wetland, due to lack of water and there is no outlet present for WD. The preamble for 33 CFR 328, published in Federal Register Volume 51, Number 219, published November 13, 1986 (page 41217), states "For clarification, it should be noted that we generally do not consider the following waters to be "Waters of the United States...(c) artificial lakes and ponds created by the excavation and/or diking of dry land to collect and retain water which are used exclusively for such purposes as stock watering, irrigation, settling basins or rice growing". Based on a review of information submitted by the consultant, aerial photography, USGS quadrangle map, NRCS Soil Maps, wetland data sheets from Eastern Mountain and Piedmont Regional Supplement to the 1987 Wetland Delineation Manual (Version 2.0), photographs of the project site, the USACE considers WD isolated and non-jurisdictional under Section 404 of the CWA as defined by 33 CFR Part 328.3(a).

WE is a 0.08 acre PEM fringe wetland located along the northeast edge of PE, an upland pond that was created within NRCS-mapped non-hydric soil series. Based on aerial imagery and surrounding landscape use, PE was constructed as an upland pond sometime between 1997 and 2002. WE has developed along the shallow area on the northeast bank of PE, and there is no outlet present for PE. The preamble for 33 CFR 328, published in Federal Register Volume 51, Number 219, published November 13, 1986 (page 41217), states "For clarification, it should be noted that we generally do not consider the following waters to be "Waters of the United States...(c) artificial lakes and ponds created by the excavation and/or diking of dry land to collect and retain water which are used exclusively for such purposes as stock watering, irrigation, settling basins or rice growing". Based on a review of information submitted by the consultant, aerial photography, USGS quadrangle map, NRCS Soil Maps, wetland data sheets from Eastern Mountain and Piedmont Regional Supplement to the 1987 Wetland Delineation Manual (Version 2.0), photographs of the project site, the USACE considers WE isolated and non-jurisdictional under Section 404 of the CWA as defined by 33 CFR Part 328.3(a).

WG is a 0.2 acre PEM depressional wetland located below the south berm of PF, an upland pond that was created within NRCS-mapped non-hydric soil series. WG has developed in non-hydric soils due to runoff and seepage from PF. WG does not have a downstream connection and is located in a depression. along the shallow area on the northeast bank of PE, and there is no outlet present for PE. Based on a review of information submitted by the consultant, aerial photography, USGS quadrangle map, NRCS Soil Maps, wetland data sheets from Eastern Mountain and Piedmont Regional Supplement to the 1987 Wetland Delineation Manual (Version 2.0), photographs of the project site, the USACE considers WG isolated and non-jurisdictional under Section 404 of the CWA as defined by 33 CFR Part 328.3(a).

WH is a 0.15 acre PEM depressional wetland located southeast of of PF, an upland pond that was created within NRCS-mapped non-hydric soil series. WG has developed in non-hydric soils within an agriculture field. WH is directly upslope and connected to S6, WI, and UDF, all of which have no downstream connection, and terminate in overland sheet flow. Based on a review of information submitted by the consultant, aerial photography, USGS quadrangle map, NRCS Soil Maps, wetland data sheets from Eastern Mountain and Piedmont Regional Supplement to the 1987 Wetland Delineation Manual (Version 2.0), photographs of the project site, the USACE considers WH isolated and non-jurisdictional under Section 404 of the CWA as defined by 33 CFR Part 328.3(a).

WI is a 0.04 acre PEM depressional wetland located southeast of of PF, an upland pond that was created within NRCS-mapped non-hydric soil series. WI has developed in non-hydric soils within an agriculture field. WI is directly downslope of S6 and WH, to UDF, all of which have no downstream connection, and terminate in overland sheet flow.

Based on a review of information submitted by the consultant, aerial photography, USGS quadrangle map, NRCS Soil Maps, wetland data sheets from Eastern Mountain and Piedmont Regional Supplement to the 1987 Wetland Delineation Manual (Version 2.0), photographs of the project site, the USACE considers WI isolated and non-jurisdictional under Section 404 of the CWA as defined by 33 CFR Part 328.3(a).

WK is a 0.13 acre PEM fringe wetland located along the northeast edge of PK, an upland pond that was created within NRCS-mapped non-hydric soil series. Based on aerial imagery and surrounding landscape use, PK was constructed as an upland pond sometime between 1983 and 1997. WK has developed along the shallow area on the north bank of PK, and there is no outlet present for PK. The preamble for 33 CFR 328, published in Federal Register Volume 51, Number 219, published November 13, 1986 (page 41217), states "For clarification, it should be noted that we generally do not consider the following waters to be "Waters of the United States...(c) artificial lakes and ponds created by the excavation and/or diking of dry land to collect and retain water which are used exclusively for such purposes as stock watering, irrigation, settling basins or rice growing". Based on a review of information submitted by the consultant, aerial photography, USGS quadrangle map, NRCS Soil Maps, wetland data sheets from Eastern Mountain and Piedmont Regional Supplement to the 1987 Wetland Delineation Manual (Version 2.0), photographs of the project site, the USACE considers WK isolated and non-jurisdictional under Section 404 of the CWA as defined by 33 CFR Part 328.3(a).

PE is a 1.02 acre pond created by excavating in uplands and side-casting the material. There are no inlet or outlet drainage features to the pond and it was not constructed within a tributary nor wetland. PE contains 0.08 acre of wetland fringe along the northeast edge (WE). PE does not drain directly or indirectly to any waters of the U.S. and does not support a link to interstate or foreign commerce because it is not known to be used by interstate or foreign travelers for recreation or other purposes; does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce and is not known to be used for industrial purposes by industries in interstate commerce. The preamble for 33 CFR 328, published in Federal Register Volume 51, Number 219, published November 13, 1986 (page 41217), states "For clarification, it should be noted that we generally do not consider the following waters to be "Waters of the United States...(c) artificial lakes and ponds created by the excavation and/or diking of dry land to collect and retain water which are used exclusively for such purposes as stock watering, irrigation, settling basins or rice growing". Based on a review of information submitted by the consultant, aerial photography, USGS quadrangle map, NRCS Soil Maps, wetland data sheets from Eastern Mountain and Piedmont Regional Supplement to the 1987 Wetland Delineation Manual (Version 2.0), photographs of the project site, the USACE considers PE isolated and non-jurisdictional under Section 404 of the CWA as defined by 33 CFR Part 328.3(a).

PK is a 0.3 acre pond created by excavating in uplands and side-casting the material. There are no inlet or outlet drainage features to the pond and it was not constructed within a tributary nor wetland. PK contains 0.13 acre of wetland fringe along the northeast edge (WK). PK does not drain directly or indirectly to any waters of the U.S. and does not support a link to interstate or foreign commerce because it is not known to be used by interstate or foreign travelers for recreation or other purposes; does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce and is not known to be used for industrial purposes by industries in interstate commerce. The preamble for 33 CFR 328, published in Federal Register Volume 51, Number 219, published November 13, 1986 (page 41217), states "For clarification, it should be noted that we generally do not consider the following waters to be "Waters of the United States...(c) artificial lakes and ponds created by the excavation and/or diking of dry land to collect and retain water which are used exclusively for such purposes as stock watering, irrigation, settling basins or rice growing". Based on a review of information submitted by the consultant, aerial photography, USGS quadrangle map, NRCS Soil Maps, wetland data sheets from Eastern Mountain and Piedmont Regional Supplement to the 1987 Wetland Delineation Manual (Version 2.0), photographs of the project site, the USACE considers PK isolated and non-jurisdictional under Section 404 of the CWA as defined by 33 CFR Part 328.3(a).

**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: **Pick List**

Drainage area: **Pick List**

Average annual rainfall: \_\_\_\_\_ inches

Average annual snowfall: \_\_\_\_\_ inches

**(ii) Physical Characteristics:**

**(a) Relationship with TNW:**

Tributary flows directly into TNW.

Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.

Project waters are **Pick List** river miles from RPW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Project waters are **Pick List** aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain: \_\_\_\_\_ .

Identify flow route to TNW<sup>5</sup>: \_\_\_\_\_ .

Tributary stream order, if known: \_\_\_\_\_ .

<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.

(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:        feet  
Average depth:        feet  
Average side slopes: **Pick List**.

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

- |  |  |                                   |
|--|--|-----------------------------------|
| <input type="checkbox"/> Silts             | <input type="checkbox"/> Sands                     | <input type="checkbox"/> Concrete |
| <input type="checkbox"/> Cobbles           | <input 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:** .

**Presence of run/riffle/pool complexes. Explain:** .

**Tributary geometry: Pick List**

**Tributary gradient (approximate average slope):**        %

(c) Flow:

**Tributary provides for: Pick List**

**Estimate average number of flow events in review area/year: Pick List**

Describe flow regime: .

**Other information on duration and volume:** .

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

**Subsurface flow: Pick List. Explain findings:** .

Dye (or other) test performed: .

**Tributary has (check all that apply):**

- |   |   |
|---|---|
| <input type="checkbox"/> Bed and banks  |   |
| <input type="checkbox"/> OHWM <sup>6</sup> (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 type="checkbox"/> destruction of terrestrial vegetation      |
| <input type="checkbox"/> shelving   | <input type="checkbox"/> the presence of wrack line                 |
| <input type="checkbox"/> vegetation matted down, bent, or absent              | <input type="checkbox"/> sediment sorting                           |
| <input type="checkbox"/> leaf litter disturbed or washed away                 | <input type="checkbox"/> scour                                      |
| <input type="checkbox"/> sediment deposition                                  | <input 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. <sup>7</sup> 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):                             |  |

(iii) **Chemical Characteristics:**

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

Explain: .

Identify specific pollutants, if known: .

<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.

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

- Riparian corridor. Characteristics (type, average width): .
- Wetland fringe. Characteristics: .
- Habitat for:
  - Federally Listed species. Explain findings: .
  - Fish/spawn areas. Explain findings: .
  - Other environmentally-sensitive species. Explain findings: .
  - Aquatic/wildlife diversity. Explain findings: .

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: .

### 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: .

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: .

**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: 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.<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:** .

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

<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 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): **The AJD review area evaluation identified ten (10) potential waters (UDF, S6, PE, PK, WD, WE, WG, WH, WI, and WK). Based on the information submitted by Asa Engineering and Consulting, Inc. on June 27, 2022, and site visit conducted on August 9, 2022, UDF, S6, PE, PK, WD, WE, WG, WH, WI, and WK are not waters of the U.S. and are not jurisdictional under Section 404 of the Clean Water Act as defined by 33 CFR Part 328.3(a). See rationale in Section II. B. 2.**

**UDF, S6, PE, PK, WD, WE, WG, WH, WI, and WK are not waters of the U.S. and are not jurisdictional under Section 404 of the Clean Water Act as defined by 33 CFR Part 328.3(a). See rationale in Section II. B. 2.**

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

**SECTION IV: DATA SOURCES.**

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

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Jurisdictional Waters Report, Spangler Farm, 7900 and 7912 Hixson Springs Road, Signal Mountain, Hamilton County, Tennessee, Asa Project No. 21-0262, dated December 29, 2021.
- 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: Accessed August 12, 2022 via National Regulatory Viewer..
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Fairmount, TN Quad.
- USDA Natural Resources Conservation Service Soil Survey. Citation: Accessed August 12, 2022 via National Regulatory Viewer.
- National wetlands inventory map(s). Cite name: Accessed August 12, 2022 via National Regulatory Viewer.
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: Accessed August 12, 2022 via National Regulatory Viewer.
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): Google Earth - Photo Taken 10/6/2020.  
or  Other (Name & Date): .
- Previous determination(s). File no. and date of response letter: PJD verification for other portions of the property is occurring concurrently with this AJD.
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): .

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** One (1) upland drainage feature (UDF), one (1) ephemeral channel (S6), six (6) isolated wetlands (WD, WE, WG, WH, WI, and WK), and two (2) ponds (PE and PK) were verified via a site visit conducted on 8/9/2022 and a desktop review including aerial imagery and LIDAR on 8/12/2022. See further explanations in Section II.B.2 above.