

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): Approved March 21, 2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Kansas City District, Clifton Park, Kansas City, Kansas, 2007-1890

C. PROJECT LOCATION AND BACKGROUND INFORMATION: This wetland is located near the top of the riverbluff of the Kansas River. The wetland is located in a blocked drainage swale that does not exhibit an ordinary high water mark. The wetland is not considered isolated because excess precipitation runoff flows downhill from the wetland through steep gullies into a piped enclosed tributary (non-RPW) of the Kansas River. It is assumed that the water can reach the Kansas River through the enclosed pipe system. However, the enclosed tributary channel cannot be traced to the Kansas River.

State: Kansas County/parish/borough: Wyandotte City: Kansas City, Kansas
Center coordinates of site (lat/long in degree decimal format): Lat. 39.10341571° N, Long. -94.65440382° W.
Universal Transverse Mercator:

Name of nearest waterbody: **Kansas River**

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

Name of watershed or Hydrologic Unit Code (HUC): **Lower Kansas River**

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: **28Sep2007**

Field Determination. Date(s): **13Sep2007**

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 no** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

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

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
- Non-RPWs that flow directly or indirectly into TNWs
- Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- Impoundments of jurisdictional waters
- Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-wetland waters: linear feet: width (ft) and/or 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):³

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **The wetland is considered adjacent to a non-RPW. A review of the chemical, physical and biological contributions of this wetland to the Kansas River (TNW) and the absence of an interstate and/or foreign commerce connection results in the absence of a significant nexus between this wetland and the Kansas River (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: acres

Drainage area: acres

Average annual rainfall: 34-38 inches

Average annual snowfall: 10-20 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 **1 (or less)** river miles from TNW.

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

Project waters are **1 (or less)** aerial (straight) miles from TNW.

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

Project waters cross or serve as state boundaries. Explain: NO.

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

Identify flow route to TNW⁵: If precipitation runoff overflows the wetland's capacity the water flows through a culvert pipe under Wilson Blvd. and then flows down the steep gully on the face of the bluff of the Kansas River. The steep gully is a downcutting (V-shaped) erosional drainageway.

Tributary stream order, if known: First.

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

Tributary is:

Natural

Artificial (man-made). Explain:

Manipulated (man-altered). Explain: A dam was constructed across the tributary swale, circa

1920's, to create a pond. The pond no longer exists. The bottom area of the "old" pond supports wetland vegetation. Downhill of the wetland, below the steep bluff drainageway the Non-RPW drainage channel has been enclosed in pipe and the landuse is commercial and industrial.

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

Average width: 0 feet

Average depth: 0 feet

Average side slopes: **Pick List.**

Primary tributary substrate composition (check all that apply):

Silts

Sands

Concrete

Cobbles

Gravel

Muck

Bedrock

Vegetation. Type/% cover:

Other. Explain:

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Enclosed in pipe with concrete, asphalt, and gravel surface over the entire Kansas River floodplain in this area.

Presence of run/riffle/pool complexes. Explain: None.

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): Unknown in Pipe %

(c) Flow:

Tributary provides for: **Ephemeral flow**

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

Describe flow regime:

Other information on duration and volume:

Surface flow is: **Overland sheetflow.** Characteristics:

Subsurface flow: **No.** Explain findings:

Dye (or other) test performed:

Tributary has (check all that apply):

Bed and banks

OHWM⁶ (check all indicators that apply):

clear, natural line impressed on the bank

the presence of litter and debris

changes in the character of soil

destruction of terrestrial vegetation

shelving

the presence of wrack line

vegetation matted down, bent, or absent

sediment sorting

leaf litter disturbed or washed away

scour

sediment deposition

multiple observed or predicted flow events

water staining

abrupt change in plant community

other (list):

Discontinuous OHWM.⁷ Explain: Tributary has been entirely enclosed in pipe from the toeslope of the steep bluff to the outlet near the Kansas River.

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

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

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

⁷Ibid.

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: Unknown, however none, other than sediments, are expected to exist.

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

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

The upper portion of the drainage area, prior to the pipe enclosure provides limited habitat for local terrestrial species and migratory birds. The area is located in a city park near the playground so human traffic reduces wildlife use. Aquatic species utilization of the area is limited to the very short duration of flow (wet period) due to the steep slope of the drainageway. Ephemeral sheet flow in the upper part of the drainageway is impounded above the public park road. This further reduces the flow down the drainageway.

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: estimate at 0.3 acres

Wetland type. Explain: Emergent wetland predominately cattails (*Typha latifolia*).

Wetland quality. Explain: This is a poor quality wetland located in an upland area due to impoundment of sheet flow.

Project wetlands cross or serve as state boundaries. Explain: NO.

(b) General Flow Relationship with Non-TNW:

Flow is: **Ephemeral flow**. Explain:

Surface flow is: **Overland sheetflow**

Characteristics:

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

Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain: Flow from the wetland is discontinuous due to the existing roadway and raised stormwater inlet structure. Sheet flow must completely fill the wetland area up to the elevation of the stormwater inlet before any flow will occur down the steep drainageway.

Ecological connection. Explain: The wetland is ecologically disconnected from the TNW by over 1000 feet of enclosed channel on the floodplain of the Kansas River. In addition, the floodplain is completely developed with predominately impervious surface (ie. concrete, asphalt, compacted gravel areas).

Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are **1 (or less)** river miles from TNW.

Project waters are **1 (or less)** aerial (straight) miles from TNW.

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

Estimate approximate location of wetland as within the **500-year or greater** floodplain.

The wetland is located about 100 feet above the Kansas River floodplain. The pick list does not have the proper selection item. So 500 yr. or greater was selected.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Unknown.

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: Emergent herbaceous.
- Habitat for:

- Federally Listed species. Explain findings:

- Fish/spawn areas. Explain findings:

- Other environmentally-sensitive species. Explain findings:

- Aquatic/wildlife diversity. Explain findings: The upper portion of the relevant reach provides limited habitat for local terrestrial and aquatic species and migratory birds. The area is located in a city park near the playground so human traffic reduces the

utilization by terrestrial wildlife. Aquatic species utilization of the area is primarily limited to the wetland only. This blockage created by the Wilson Blvd. culvert greatly reduces the flow and the migration of aquatic species and organic compounds to the TNW.

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

All wetland(s) being considered in the cumulative analysis: **1**

Approximately (0.3) 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>
N	0.3		

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: **The unnamed tributary and the wetland do not exhibit a significant nexus to the Kansas River (TNW).** The systems drains approximately 50 acres primarily consisting of mowed park land (grass) and steep bare soil gully. The Non-RPW drainageway is enclosed in culvert pipe from the toe of the steep bluff across the floodplain to the Kansas River. Given the lack of a bed and bank in the upper portion of the drainage that contains the wetland, given the weak definition of bed and bank in the steep gully portion of the drainageway, and given the enclosed flow characteristics within the 1000 plus feet of pipe, it was determined that the transport of pollutants, flood abatement and the transport of organic compounds in this reach of stream and the wetland combined have an insubstantial affect on the Kansas River (TNW). In addition, due to the small size (0.3 acre), low volume (0.3 acre feet), and the ephemeral nature of the wetland and due to the enclosure of the downstream channel in culvert pipe a connection to interstate and/or foreign commerce cannot be established. In addition, no fish or shellfish are harvested from the wetland or stream, water from this reach is not extracted for industrial purposes and the enclosed portion of the reach does not allow transport of goods to the Kansas River (TNW).
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-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: linear feet width (ft).
 - Other non-wetland waters: acres.
- Identify type(s) of waters: .

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

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

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.⁹

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from “waters of the U.S.,” or
- Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
- Demonstrate that water is isolated with a nexus to commerce (see E below).

⁸See Footnote # 3.

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

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):¹⁰

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain: .
- Other factors. Explain: .

Identify water body and summarize rationale supporting determination:

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

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

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
 - Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: **The unnamed tributary and the wetland do not exhibit a significant nexus to the Kansas River (TNW). The systems drains approximately 50 acres primarily consisting of mowed park land (grass) and steep bare soil gully. The Non-RPW drainageway is enclosed in culvert pipe from the toe of the steep bluff across the floodplain to the Kansas River. Given the lack of a bed and bank in the upper portion of the drainage that contains the wetland, given the weak definition of bed and bank in the steep gully portion of the drainageway, and given the enclosed flow characteristics within the 1000 plus feet of pipe, it was determined that the transport of pollutants, flood abatement and the transport of organic compounds in this reach of stream and the wetland combined have an insubstantial affect on the Kansas River (TNW). In addition, due to the small size (0.3 acre), low volume (0.3 acre feet), and the ephemeral nature of the wetland and due to the enclosure of the downstream channel in culvert pipe a connection to interstate and/or foreign commerce cannot be established. In addition, no fish or shellfish are harvested from the wetland or stream, water from this reach is not extracted for industrial purposes and the enclosed portion of the reach does not allow transport of goods to the Kansas River (TNW).**
- Other: (explain, if not covered above): .

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: Unknown due to piping of the Non-RPW tributary acres. List type of aquatic resource: .
- Wetlands: 0.3acres.

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: .
- 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: .

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.

- Corps navigable waters' study: .
- U.S. Geological Survey Hydrologic Atlas: Lower Kansas.
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000 (Shawnee).
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: . (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): .
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): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: This wetland is estimated to be about 0.3 acre in size. The wetland area is located very high in the watershed in a drainage swale that does not have an associated stream channel (no OHWM). The wetland was created as the result of past landuse which is reported to be an old water impoundment (pond) located in the city park. It is reported that the neighborhood community used the "pond" for swimming, circa 1920's. The pond was constructed in a drainage swale near the top of the steep river bluffs about a mile south of the Kansas River. The USGS Quadrangle illustrates that slopes are very steep and the drainage gully is pronounced downhill of the wetland. The overflow from the wetland can flow through a culvert in the roadway and downhill through the steep drainage gully and onto the Kansas River floodplain. The actual flow path cannot be traced due to the enclosure of drainage channels into pipes under the railroad yard and other developed areas of the Kansas River floodplain. No fish or other aquatic species is harvested from the wetland or from the drainage gully/tributary, no water is harvested to support industrial uses and the enclosed nature of the non-RPW tributary eliminates the use for the channel to transport goods.