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): May 20, 2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: St. Louis, Salt River Road JD, MVS-2008-238-001_w01 and w02

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Missouri County/parish/borough: St. Charles County City: St. Peters
Center coordinates of site (lat/long in degree decimal format): Lat. 38.8057° **N**, Long. -90.6357° **W**.
Universal Transverse Mercator: 15 North
Name of nearest waterbody: Dardenne Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Mississippi River
Name of watershed or Hydrologic Unit Code (HUC): 07110009
☒ 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:
☒ Field Determination. Date(s): April 30, 2008

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "*navigable waters of the U.S.*" within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
   ☐ TNWs, including territorial seas
   ☒ Wetlands adjacent to TNWs
   ☐ Relatively permanent waters[2] (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: width (ft) and/ acres.
   Wetlands: 3.34 acres in total.

   c. **Limits (boundaries) of jurisdiction** based on: **1987 Delineation Manual**
   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:

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[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: **Mississippi River**.

Summarize rationale supporting determination: The Mississippi River is a navigable water of the U.S. due to its current and past use of interstate commerce and recreation.

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": Wetlands w01 and w02 are located in the 50-100 year floodplain of the Mississippi River. See section III C for a more detailed explanation.

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[4] 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: **square miles**
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

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

Tributary stream order, if known: .

(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:
Average depth:
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:
Presence of run/riffle/pool complexes. Explain
Tributary geometry: **Pick List**
Tributary gradient (approximate average slope): %

(c) Flow:
Tributary provides for:
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):
- ☐ Bed and banks
- ☐ OHWM[5] (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.[6] 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):	

(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:

[5]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.
[6]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: 3.34 acres

Wetland type. Explain: The identified wetlands contain emergent vegetative fringe with the majority of the area being open water.

Wetland quality. Explain: Generally, these wetlands receive pressure from the surrounding industrialized and agricultural setting. They were created as borrow areas for the adjacent agricultural levee over 30 years ago. Therefore, they are not considered "pristine" wetlands. However, wetlands are considered as essential habitat for the local wildlife. Wetlands near or within a heavily urbanized location, such as St. Peters, Missouri provide cover, food, and a water supply for a variety of urban wildlife species. For example, a pair of mallard ducks and a painted turtle were observed within the wetlands during the April 30, 2008 site visit. Although these wetlands are mostly open water in which amphibians and other animals may use for breeding, a forested habitat exists near this area where the animals may retreat for shade or cover.

Project wetlands cross or serve as state boundaries. Explain:.

(b) General Flow Relationship with Non-TNW:

Flow is: **Perennial flow**. Explain:

Surface flow is**: Overland sheetflow**

Characteristics: Direct swales or channels were not observed connecting the identified wetlands. It is anticipated that overland sheetflow is one of the main sources of hydrology of these wetlands. Also, information gained from a neighboring landowner/farmer revealed that a culvert does exist underneath Silvers Road, which would connect wetlands w01 and w02, but has silted in over the years. However, w02 did contain a culvert that directed hydrology under Salt River Road and to the forested wetland on the south side of road. Flow from the forested wetland runs underneath Brown Road via a culvert and continues to flow parallel to the train tracks until it reaches Dardenne Creek, a perennial waterbody.

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: The two wetlands were determined to be adjacent to Dardenne Creek based on their proximity and connection to the perennial flow stream. The wetlands are located approximately 780 lineal feet from Dardenne Creek. Both wetlands are location within the 50- to 100- year floodplain of the Mississippi River, a TNW. Salt River Road is a man-made barrier that obstructs flow from both w01 and w02 wetlands to the forested wetlands and ultimately Dardenne Creek on the south side. However, the culvert that directs flow from the these wetlands to the forested wetlands on the south side of the road does allow flow to pass and is considered a hydrological connection.

☒ Ecological connection. Explain: The identified wetlands provide an ecological benefit to the water quality within Dardenne Creek and on the Mississippi River. Any species that lives wholly within, or partly utilizes the creek, benefits by having a healthy aquatic system .

☒ Separated by berm/barrier. Explain: Although a 2-lane road, named Salt River Road, acts as a barrier between both w01 and w02 wetlands and the forested wetlands, surface outlflow is not severed since the culvert from w02 is acting as a conduit between the two aquatic resources.

(d) Proximity (Relationship) to TNW

Project wetlands are **2-5** river miles from TNW.

Project waters are **2-5** aerial (straight) miles from TNW.

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

Estimate approximate location of wetland as within the **50 - 100-year** floodplain.

(ii) Chemical Characteristics:

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

Identify specific pollutants, if known: No specific pollutants observed. However, the wetlands are located within an agricultural area within St. Charles County. Although there were no observable pollutants, potential souces of pollution within the agricultural setting include non-point souce discharges from fertilizers and pesticides.

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

☐ Riparian buffer. Characteristics (type, average width):

☒ Vegetation type/percent cover. Explain: Both identified wetlands contain emergent vegetative cover considered fringe wetland habitat along the open water habitat.

☒ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: During 30 April 2008 site vist, mallard ducks and painted turtles were observed within the wetland adjacent to Salt River Road (w02). .

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

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

Approximately (3.34) 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)
W01	NO	1.00 acres		
W02	NO	2.34 acres		

Summarize overall biological, chemical and physical functions being performed: See Significant Nexus

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:

Dardenne Creek is a primary tributary to the Mississippi River, which is a Traditional Navigable Water. Both identified wetlands (w01 and w02) are positioned within the 50- to 100- year floodplain of the Mississippi River, and they have the capability to individually and collectively influence the 1) physical, 2) chemical, and 3) biologic functions of Dardenne Creek and the Mississippi River.

As previously indicated, two wetlands were observed to be located adjacent, but not directly abutting Dardenne Creek. It is believed that the wetlands have more than a neglible affect on the physical conditions of Dardenne Creek as they intercept surface flow hydrology, such as agricultural and industrial runoff as it proceeds to the perennial flow stream. Generally, wetland plants, leaf litter, and other organic materials slow the flow of water en route to Dardenne Creek, causing water to be temporarily detained within wetlands and the open water habitat. As water transport becomes temporarily slowed, opportunities for natural losses to the hydrologic cycle present itself (i.e., plant uptake, evapotransporation, evaporation, and groundwater infiltration). Therefore, water transport to Dardenne Creek is anticipated to be slowed through the interception of wetlands. As a result, the physical features of Dardenne Creek are likely to be positively affected through reducing the velocity of surface flow hydrology. As observed during the site visit, Dardenne Creek already exhibits signs of increased erosion from the pressure of agriculture, industrialization and upstream urbanization. The conditions of Dardenne Creek are likely the response from a watershed that has already experienced significant losses of natural wetlands that were once present in the floodplain.

All of the identified wetlands within the Dardenne Creek floodplain have the potential to help ameliorate the affect of adjacent urbanization on the water quality of Dardenne Creek and the Mississippi River. Wetlands have long been termed the "kidneys of the landscape", due to their capacity to assist with pollutant filtration and retention. Within the Dardenne Creek watershed, several opportunities exist for non-point source pollutants to enter the waterways (i.e., waste from domestic animals, pesticide, and fertilizer applications). Wetlands have been documented as having the capability of providing a long-term sink for these types of nutrients, primarily through their biogeochemical cycling (Walbridge and Lockaby 1994, Axt and Walbridge 1999). Specifically, wetlands that have developed within mineral soils, such as the ones observed, may even possess a greater capacity to assist with nutrient and pollutant retention due to a large source of binding cations (Richardson 1985).

Biologic Influence - In general, it has been documented that species richness and primary productivity are very high within wetlands that maintain open flow systems with regular pulsing hydroperiods. It is thought that flowing water can be a stimulus to plant productivity, likely caused by their ability to continually provide a renewable source of mineral input (Mitsch and Gosselink 2000). Flooding also can temporarily induce anaerobic conditions, converting some micronutrients (i.e, Fe and Mn) into a form more readily available for plant uptake. Generally, greater plant productivity can result in a wider variety of other living organisms that utilize these systems. Greater production of plant biomass can typically convert to a more abundant food supply for local wildlife. Also, when water may become sparsely available, water is made available to animals through the moist hydrophytic vegetation or within shallow wetland pools. It has been previously recognized on this JD form that urban wildlife are under considerable pressure for having cover, food, and an available water supply. It is likely that many of the local wildlife species are highly dependent upon these wetlands for sustainability.

Axt, J.R., and M.R. Walbridge. 1999. Phosphate removal capacity of palustrine forested wetlands and ajacent uplands in Virginia. Soil Science Society of American Journal 63:1019-1031.

Mitsch, W.J. and J.G. Gosselink. 2000. Wetlands. John Wiley and Sons, Inc. New York, New York

Walbridge, M.R. and B.G. Lockaby. 1994. Effects of forest management on biogeochemical functions in southern forested wetlands. Wetlands 14:10-17..

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: The RPW is a named Dardenne Creek. It is mapped as a solid blue line on the USGS topographic map, indicating perennial flow. Upstream of the site, Dardenne Creek has over a 20 square mile watershed that supports its year round flow. The waterbody was also determined to be perennial based on the channel's observable flow characteristics, channel size, as well as prior site knowledge and experience.
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☐ 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: **100** linear feet **20** width (ft).
☐ Other non-wetland waters: acres.

Identify type(s) of waters: .

3. **Non-RPWs[7] 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 jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area: **3.34** acres.

6. **Wetlands abutting 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.[8]**
   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):[9]

☐ 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: .

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[7] See Footnote # 3.
[8] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
[9] **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): .

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: Howard R. Green Company, dated 4 April 2008.
☐ 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: 7.5 minute, O'Fallon, MO.
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: St. Charles County, Missouri. Soil mapped as Hurst silt loam that is described as poorly drained w/ 0-2% slopes and listed as a prime farmland and as a hydric soil.
☒ National wetlands inventory map(s). Cite name: O'Fallon, MO. W01 mapped as PUBGx and the adjacent, forested wetlands also indicated on the map (PFO1A).
☐ State/Local wetland inventory map(s):.
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): Rastor image, St. Louis NAIP 2007.
or ☒ Other (Name & Date):. Photos from 30 April 2008 site visit
☐ Previous determination(s). File no. and date of response letter: .
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☒ Other information (please specify):Field review 30 April 2008.

B. ADDITIONAL COMMENTS TO SUPPORT JD:.