

**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): 20211117**

**B. ST LOUIS, MO DISTRICT OFFICE, FILE NAME, AND NUMBER: MVS-2021-594**

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

State: MO County/parish/borough: Warren City: Wright City

Center coordinates of site (lat/long in degree decimal format): Lat. 38.8152° N, Long. -91.0413° W. Universal

Transverse Mercator: 15

Name of nearest waterbody: Peruque Creek traverses the western part of the review area.

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: 20211116

Field Determination. Date(s):

**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.

**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.

**1. Waters of the U.S.: N/A**

**2. Non-regulated waters/wetlands (check if applicable):<sup>1</sup>**

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **The preamble for 33 CFR 328, published in Federal Register Volume 51, Number 219, 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.... (a) Non-tidal drainage and irrigation ditches excavated on dry land. (c) Artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing. A desktop review of the 84.8-acre review area as well as the historical and current aerial photography, historic and current USGS quadrangle map, and October 2021 Waters of U.S. Delineation Report (Brookside Environmental Services), it has been determined that Basin 1 (0.05-acre), Basin 2 (0.04-acre), Basin 3 (.03-acre), Basin 4 (.02-acre), and Basin 5 (.02-acre) were constructed settling basins. Additionally, Pond 1 (.75-acre), Pond 2 (.25-acre), and Pond 3 (.10-acre) were artificially constructed within uplands, with no hydrologic connection to Waters of the United States. These basins and ponds do not support a link to interstate or foreign commerce because they are not known to be used by interstate or foreign travelers for recreation or other purposes; they do not produce fish or shellfish that could be used in interstate or foreign commerce, and they are not known to be used for industrial purposes for interstate or foreign commerce. Therefore, we have determined these wetlands to be non-jurisdictional under the Clean Water Act because they lack a connection and/or relationship sufficient to serve as a basis for jurisdiction.**

**SECTION III: CWA ANALYSIS**

**A. TNWs AND WETLANDS ADJACENT TO TNWs: N/A**

**B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY): N/A**

<sup>1</sup> Supporting documentation is presented in Section III.F.

C. SIGNIFICANT NEXUS DETERMINATION: N/A

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

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): N/A

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: 1.1 acres.
- Other non-wetland waters: .16 acres. List type of aquatic resource: Emergent settling basins.
- 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: Brookside Environmental Services
- 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: 1:24K Wright City
- USDA Natural Resources Conservation Service Soil Survey. Citation: Warren County Soil Survey
- National wetlands inventory map(s). Cite name: USFWS NWI GIS Mapping
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is:          (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): Google Earth 2003, 2010, 2012, 2018.  
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: A preliminary jurisdictional determination (PJD) was completed for Peruque Creek (2,625 linear feet/1.05-acre) and T-1 intermittent stream (918 linear feet/.08-acre) located within the 84.8-acre review area.