

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): 11/2021 (rev. 7/2022 & 8/2022)

B. ST. LOUIS DISTRICT OFFICE, FILE NAME, AND NUMBER: MVS-2021-610 (Casey Fork Solar Farm)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Illinois County/parish/borough: Jefferson City: Texico
Center coordinates of site (lat/long in degree decimal format): Lat. 38.4488° Long. -88.8695°

Universal Transverse Mercator: Zone 16

Name of nearest waterbody: Casey Fork

Name of watershed or Hydrologic Unit Code (HUC): Limestone Creek-Casey Fork and Panther Fork-Horse Creek

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: 8/12/21

Field Determination. Date(s): August 16 to August 20, 2021, and from October 11 to October 21, 2021

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):¹**

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

Explain: Isolated wetlands, upland ponds, erosional features, and agricultural swales.

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

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): Agricultural Swales and Erosional Features

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):

¹ Supporting documentation is presented in Section III.F.

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: **7.32** acres.
- Other non-wetland waters: acres. List type of aquatic resource:
- Wetlands: **4.08** 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: **Wetland Delineation Report/KMZ**
- 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: **Kell & Harmony Quads (1:24,000)-Various Years**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **Jefferson County, Illinois/Web Soil Survey**
- National wetlands inventory map(s). Cite name: **Color Infared. 1:58,000. 1980's (USFWS NWI)**
- State/Local wetland inventory map(s):
- FEMA/FIRM maps: **FEMA. 2021. National Flood Hazard Layer Viewer.**
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): **Google Earth/State Historic Aerials (Various Years)**
or Other (Name & Date): Site Photographs from Agent's Field Evaluation
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): LiDAR data - ILHMP

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Ninety-nine water features were evaluated as part of this AJD, whereas the remainder of the water features (290) within the 2,353-acre subject property were covered by a Preliminary Jurisdictional Determination (PJD). The ninety-nine features evaluated as part of this AJD include isolated wetlands, erosional features, upland ponds, and agricultural swales. Attachment A includes a list of water features, their location, size, and type. Each isolated wetland was determined to have no surface connection to downstream waters or lie adjacent to other waters. The upland ponds and agricultural swales identified in the AJD were determined to be isolated and features excavated in upland settings. Many of the constructed agricultural swales have developed wetland and/or stream characteristics, all of which were identified during the field delineation efforts and documented in the report. The swales were identified as having been constructed to increase drainage of a particular area within agricultural fields, have been excavated wholly in and draining only uplands and do not carry a relatively permanent flow of water to downstream waters. The identified erosional features are disconnected from downstream waters, contain ephemeral flow regimes, and do not have a continuous OHWM and/or bed and bank. Many of these features begin upslope of the constructed agricultural swales and/or roadside drainage ditches.