

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

Hurlburt Field Air Force Base
JD Form 6

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): 13 April 2012

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Jacksonville District USACE – Pensacola Permits Section, Hurlburt Field Air Force Base, SAJ-2011-00175 (JD-TSH) and SAJ-2011-01064 (JD-TSH).

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Florida County: Okaloosa City: Hurlburt Field
Center coordinates of site: Latitude 30.425833° North, Longitude 86.689444° West
Name of nearest waterbody: Santa Rosa Sound

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Santa Rosa Sound.
Name of watershed or Hydrologic Unit Code (HUC): Pensacola Bay watershed (HUC 03140105)

The tributary evaluated by this form is located west of the flight line (runway) at Hurlburt Field and begins on the east side of Bakke Street near Latitude: 30.419961° North, Longitude: 86.705001° West. Most of the tributary is mapped by the National Hydrographic Data (Reach Code 03140105000821). The tributary flows generally south then southwest toward the intersection of Mayo Street and McMillan Street. This tributary flows into the tributary evaluated by JD Form 5 at Latitude: 30.415011° North, Longitude: 86.707484° West.

- Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
- Check if other sites are associated with this action and are recorded on a different JD form. The overall jurisdictional evaluation encompasses more than 5,750 acres within Hurlburt Field Air Force Base and includes approximately 3,000 acres of wetlands. The review area is located within two subbasins: the Pensacola Bay sub basin (HUC 03140105) and the Choctawhatchee Bay sub basin (HUC 03140102). Additional wetlands and tributaries are covered on additional JD forms.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

- Office (Desk) Determination. Date: 8-10 June 2011, 23 August 2011, 30-31 January 2012, February 2012
- Field Determination. Date(s): 13-15 June 2011, 24 August 2011

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.

- 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 and are not** “*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.

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

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

- 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: Approximately 2,500 linear feet of RPW/non-RPW tributary (same tributary)
Wetlands: 4.48 acres.

c. Limits (boundaries) of jurisdiction based on: *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region*

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: Wetland 2b is hydrologically isolated from other waters; does not have a nexus to interstate commerce; and does not have an apparent ecological interconnection with other waters of the U.S.

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: NA

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

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.

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

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: 68,183 acres (HUC 0314010502) Fundy Bayou – Williams Creek Frontal

Drainage area:

Average annual rainfall: 69 inches (69 inches reported for Fort Walton Beach, just east of Hurlburt Field AFB)

Average annual snowfall: 0 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through 2 tributaries before entering TNW.

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

Project waters are 1 (or less) river miles from RPW.

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

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

Project waters cross or serve as state boundaries. Explain: NA

Identify flow route to TNW⁵: The non-RPW tributary is the man-made upper reach of a natural RPW tributary (i.e., a drainage ditch that flows direction into a natural stream); this upper reach is essentially an extension of the natural stream.

Tributary stream order, if known: 1

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

Tributary is: Natural

Artificial (man-made). Explain: Upper reach identified as non-RPW is man-made; lower reach of this tributary is natural, although it has likely been altered to some limited extent..

Manipulated (man-altered). Explain:

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

Average width: 3 – 8 feet, variable

Average depth: 6 inches – 12 inches

Average side slopes: 2:1.

Primary tributary substrate composition (check all that apply):

Silts

Sands

Concrete

Cobbles

Gravel

Muck

Bedrock

Vegetation. Type/% cover: Estimated 70% coverage with emergent vegetation

Other. Explain:

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: stable, vegetated.

Presence of run/riffle/pool complexes. Explain: Not present.

Tributary geometry: Relatively straight, with a few bends.

Tributary gradient (approximate average slope): 2%

(c) Flow:

Tributary provides for: Intermittent but not seasonal flow

Estimate average number of flow events in review area/year: 20 (or greater)

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.

Describe flow regime: Tributary flows in response to rainfall. Flow is sustained for longer durations after moderate – heavy rainfall due to overland drainage and subsurface drainage to the tributary. As noted above, this area receives an average of approximately 69 inches of rainfall per year (based on 30 year average).

Other information on duration and volume: .

Surface flow is: **Discrete and confined**. Characteristics: Flow is within a defined channel..

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

Dye (or other) test performed: .

Tributary has (check all that apply):

- Bed and banks
- OHWM⁶ (check all indicators that apply):

<input type="checkbox"/> clear, natural line impressed on the bank	<input checked="" type="checkbox"/> the presence of litter and debris
<input checked="" 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 checked="" type="checkbox"/> scour
<input checked="" 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):	
- Discontinuous OHWM.⁷ 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: <ul style="list-style-type: none"> <input type="checkbox"/> oil or scum line along shore objects <input type="checkbox"/> fine shell or debris deposits (foreshore) <input type="checkbox"/> physical markings/characteristics <input type="checkbox"/> tidal gauges <input type="checkbox"/> other (list): | <input type="checkbox"/> Mean High Water Mark indicated by: <ul style="list-style-type: none"> <input type="checkbox"/> survey to available datum; <input type="checkbox"/> physical markings; <input type="checkbox"/> vegetation lines/changes in vegetation types. |
|--|--|

(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: .

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

- Riparian corridor. Characteristics (type, average width): .
- Wetland fringe. Characteristics: Tributary begins in wetland polygon uug and flows through culverts into wetland jj; the wetlands encompass the tributary in those areas..
- Habitat for:
 - Federally Listed species. Explain findings: .
 - Fish/spawn areas. Explain findings: .
 - Other environmentally-sensitive species. Explain findings: .
 - Aquatic/wildlife diversity. Explain findings: Tributary begins at wetland polygon uug and flows south to wetland polygon jj, then into the RPW portion of the tributary. The tributary serves as a corridor for amphibians and reptiles and as a forage area for birds such as blue heron. Provides an ecological link between wetland uug and downstream wetlands/tributaries.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

⁶A 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.

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: 0.12 acres

Wetland type. Explain: Palustrine - forested.

Wetland quality. Explain: Moderate high quality; mature vegetation, good water environment with close proximity to tributary; limited landscape support due to surrounding development.

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: Wetland drains to tributary in response to rainfall. Drainage would be mostly shallow sub-surface during light – moderate rainfall and would be shallow sub-surface and overland flow during heavy rainfall.

Surface flow is: **Overland sheetflow**

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: Shallow sub-surface connection; floodwater storage for tributary;

National Hydrographic Dataset indicates that this wetland is at the headwater of the RPW tributary. The alteration of the tributary resulted in a channel just west of this wetland and also extended the reach of the tributary further north.

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 **10 - 20-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:

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

Riparian buffer. Characteristics (type, average width):

Vegetation type/percent cover. Explain: Forested wetland, 90% cover by deciduous and coniferous trees.

Habitat for:

Federally Listed species. Explain findings:

Fish/spawn areas. Explain findings:

Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. Explain findings: Wetland is part of the forested corridor along the tributary

and provides ecosystem support to wildlife utilizing the range of habitats within this area. Small mammals, birds, reptiles, amphibians, and likely black bears utilize this area for food and cover.

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

All wetland(s) being considered in the cumulative analysis: **5**

Approximately 3.3 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>
wetland jj (northern portion) Yes	0.25 acre (estimated)
wetland uug Yes	0.21 acre
wetland kk Yes	0.06 acre
wetland 2 Yes	2.66 acres
wetland 2a No	0.12 acre

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 upper reach of the tributary is a non-RPW. This portion of the tributary provides an ecological link between wetland polygon uug and wetland polygon jj. The non-RPW and its adjacent wetlands provide for carbon cycling; floodwater attenuation; downstream food web support; and serves as an ecological corridor for aquatic insects, amphibians, and reptiles. This tributary is encompassed by wetland polygon jj, which has contiguous wetlands down to, and encompassing, the RPW portion of the tributary. The non-RPW portion of the tributary and its adjacent wetlands affect the biological, chemical, and physical nature of the downstream 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: The tributary and all its adjacent wetlands provide carbon cycling/storage, uptake of nutrients by vegetation, downstream food web support (organic matter, insects, aquatic organisms), floodwater attenuation, habitat support for species that also utilize the TNW (e.g., birds of prey such as blue heron).

The tributary, including the upper reach of non-RPW tributary, and its wetlands affect the biological, chemical, and physical nature of the downstream TNW.

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:
- Wetlands adjacent to TNWs:

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: Stream indicated as perennial by National Hydrographic Dataset.
- 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: Approximately 1,300 linear feet, Approximately 3 - 8 feet wide, variable.
- 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: The non-RPW portion of the tributary is approximately 1,200 linear feet 3-8 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: The tributary flows through the wetland; wetlands are directly abutting the tributary.
 - 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: 4.09 acres.
Specifically, wetland jj (1.43 acres, estimated) and wetland 2 (2.66 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: 0.12 acre.
Specifically, Wetland Area 2a (0.12 acre).

⁸See Footnote # 3.

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: 0.27 acres.
Specifically, wetland kk (0.06 acre) and uug (0.21 acre).

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).

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:
- 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: 0.11 acre. Specifically, wetland 2b (0.11 acre). Wetland 2b is hydrologically isolated from the tributary. It is located approximately 280 feet west of the tributary and is separated from the tributary by a combination of uplands, wetlands, and a paved road (note – the paved road terminated within the shortest path between wetland 2b and the tributary).

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

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.

