

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

**SECTION I: BACKGROUND INFORMATION**

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**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 02-Jul-2008

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Vicksburg District, MVK-2008-00725-JD1

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

State : MS - Mississippi  
County/parish/borough: Hinds  
City: Clinton  
Lat: 32.347287  
Long: -90.318092  
Universal Transverse Mercator: [ ]  
Name of nearest waterbody: Unnamed Intermittent Tributary of Lindsey Creek  
Name of nearest Traditional Navigable Water (TNW): Big Black River  
Name of watershed or Hydrologic Unit Code (HUC): 08060202

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 the action and are recorded on a different JD form.

**D. REVIEW PERFORMED FOR SITE EVALUATION:**

Office Determination Date: 02-Jul-2008  
Field Determination Date: 30-Jun-2008  
(s):

**SECTION II: SUMMARY OF FINDINGS**

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**A. RHA SECTION 10 DETERMINATION OF JURISDICTION**

There  "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  "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:<sup>1</sup>**

Water Name	Water Type(s) Present
2008-725, Intermittent Stream	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs

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

Area: 264.773664 (m<sup>2</sup>)

Linear: (m)

**c. Limits (boundaries) of jurisdiction:**

based on: Established by  
OHWM.

OHWM Elevation: (if known)

**2. Non-regulated waters/wetlands:<sup>3</sup>**

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

**SECTION III: CWA ANALYSIS****A. TNWs AND WETLANDS ADJACENT TO TNWs****1. TNW**

Not Applicable.

**2. Wetland Adjacent to TNW**

Not Applicable.

**B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):****1. Characteristics of non-TNWs that flow directly or indirectly into TNW****(i) General Area Conditions:**

Watershed size: 164593.450265  
acres

Drainage area: 150 acres

Average annual rainfall: 57.38 inches

Average annual snowfall: .5 inches

**(ii) Physical Characteristics****(a) Relationship with TNW:**

Tributary flows directly into TNW.

Tributary flows through [ ] tributaries before entering TNW.

:Number of tributaries

Project waters are 30 (or more) river miles from TNW.

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

Project Waters are 20-25 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:

Identify flow route to TNW:<sup>5</sup>

Unnamed Tributaries of Lindsey Creek, Lindsey Creek, Bakers Creek, Fourteenmile Creek, Big Black River  
(TNW)

**Tributary Stream Order, if known:**

Order	Tributary Name
1	2008-725, Intermittent Stream

**(b) General Tributary Characteristics:****Tributary is:**

Tributary Name	Natural	Artificial	Explain	Manipulated	Explain
2008-725, Intermittent Stream	-	-	-	X	Development has resulted in the use of storm drains to direct runoff into the subject stream order. An apparent detention pond is present within a portion of the subject stream order.

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

Tributary Name	Width (ft)	Depth (ft)	Side Slopes
2008-725, Intermittent Stream	6	2	2:1

**Primary tributary substrate composition:**

Tributary Name	Silt	Sands	Concrete	Cobble	Gravel	Muck	Bedrock	Vegetation	Other
2008-725, Intermittent Stream	X	X	-	-	X	-	-	-	-

**Tributary (conditions, stability, presence, geometry, gradient):**

Tributary Name	Condition\Stability	Run\Riffle\Pool Complexes	Geometry	Gradient (%)
2008-725, Intermittent Stream	The stream channel is characterized by well defined banks.	An apparent detention pond is present within a portion of the subject stream order.	Relatively straight	5

**(c) Flow:**

Tributary Name	Provides for	Events Per Year	Flow Regime	Duration & Volume
2008-725, Intermittent Stream	Seasonal flow	20 (or greater)	Flow occurs seasonally.	-

**Surface Flow is:**

Tributary Name	Surface Flow	Characteristics
2008-725, Intermittent Stream	Confined	The stream channel is characterized by well defined banks.

**Subsurface Flow:**

Tributary Name	Subsurface Flow	Explain Findings	Dye (or other) Test
2008-725, Intermittent Stream	Unknown	-	-

**Tributary has:**

Tributary Name	Bed & Banks	OHWB	Discontinuous OHWB <sup>7</sup>	Explain
2008-725, Intermittent Stream	X	X	-	-

**Tributaries with OHWM<sup>6</sup> - (as indicated above)**

Tributary Name	OHWM	Clear	Litter	Changes in Soil	Destruction Vegetation	Shelving	Wrack Line	Matted/Absent Vegetation	Sediment Sorting	Leaf Litter	Scour	Sediment Deposition	Flow Events	Water Staining	Changes Plant	Other
2008-725, Intermittent Stream	X	X	-	-	-	X	-	X	-	X	-	-	-	-	-	-

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction:

**High Tide Line indicated by:**

Not Applicable.

**Mean High Water Mark indicated by:**

Not Applicable.

**(iii) Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Tributary Name	Explain	Identify specific pollutants, if known
2008-725, Intermittent Stream	Clear	Unknown

**(iv) Biological Characteristics. Channel supports:**

Tributary Name	Riparian Corridor	Characteristics	Wetland Fringe	Characteristics	Habitat
2008-725, Intermittent Stream	-	-	-	-	X

**Habitat for: (as indicated above)**

Tributary Name	Habitat	Federally Listed Species	Explain Findings	Fish/Spawn Areas	Explain Findings	Other Environmentally Sensitive Species	Explain Findings	Aquatic/Wildlife Diversity	Explain Findings
2008-725, Intermittent Stream	X	-	-	-	-	-	-	X	The subject stream directly or indirectly supports various algal, invertebrate, and fish communities.

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

**(i) Physical Characteristics:**

**(a) General Wetland Characteristics:**

**Properties:**

Not Applicable.

**(b) General Flow Relationship with Non-TNW:**

**Flow is:**

Not Applicable.

**Surface flow is:**

Not Applicable.

**Subsurface flow:**

Not Applicable.

**(c) Wetland Adjacency Determination with Non-TNW:**

Not Applicable.

**(d) Proximity (Relationship) to TNW:**

Not Applicable.

**(ii) Chemical Characteristics:**

**Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).**

Not Applicable.

**(iii) Biological Characteristics. Wetland supports:**

Not Applicable.

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

**All wetlands being considered in the cumulative analysis:**

Not Applicable.

**Summarize overall biological, chemical and physical functions being performed:**

Not Applicable.

## **C. SIGNIFICANT NEXUS DETERMINATION**

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**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.**

**Findings for: 2008-725, Intermittent Stream**

The following significant nexus determination is documented as a matter of policy. The subject stream order functions as an intermittent tributary (unnamed) of Lindsey Creek. Approximately 150 acres (estimated) utilize this stream order as a drainage route to Lindsey Creek and eventually the Big Black River, the nearest traditionally navigable water. The stream serves as a source of storm water runoff relief for the area.

Subsequently, this results in a significant volume of runoff entering the Big Black River. The drainage area, which is developed, falls within the city limits of Clinton, Mississippi. Various urban pollutants travel via this stream order in route to the Big Black River. Urbanization within a stream's drainage area results in a decline in the richness of algal, invertebrate, and fish communities. The function of this stream order provides a significant impact to the physical, chemical, and biological integrity of the Big Black River, the traditionally navigable water in question.

#### **D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/ WETLANDS ARE:**

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**1. TNWs and Adjacent Wetlands:**

Not Applicable.

**2. RPWs that flow directly or indirectly into TNWs:**

Wetland Name	Flow	Explain
2008-725, Intermittent Stream	SEASONAL	The subject stream is intermittent in nature. The stream channel is characterized by well defined banks. No hydrophytic vegetation components are present within the stream channel.

**Provide estimates for jurisdictional waters in the review area:**

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
2008-725, Intermittent Stream	Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs	-	264.773664
<b>Total:</b>		<b>0</b>	<b>264.773664</b>

**3. Non-RPWs that flow directly or indirectly into TNWs:<sup>8</sup>**

Not Applicable.

**Provide estimates for jurisdictional waters in the review area:**

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

**Provide estimates for jurisdictional wetlands in the review area:**

Not Applicable.

**7. Impoundments of jurisdictional waters:<sup>9</sup>**

Not Applicable.

**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:<sup>10</sup>**

Not Applicable.

**Identify water body and summarize rationale supporting determination:**

Not Applicable.

**Provide estimates for jurisdictional waters in the review area:**

Not Applicable.

**F. NON-JURISDICTIONAL WATERS. INCLUDING WETLANDS**

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):

**Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (ie., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:**

Not Applicable.

**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.**

Not Applicable.

## SECTION IV: DATA SOURCES.

### A. SUPPORTING DATA. Data reviewed for JD

(listed items shall be included in case file and, where checked and requested, appropriately reference below):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Project Location Map	Williford, Gearhart & Knight, Inc.
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Project Area Map	Williford, Gearhart & Knight, Inc.
--U.S. Geological Survey Hydrologic Atlas	-	-
----USGS 8 and 12 digit HUC maps	ORM2	-
--U.S. Geological Survey map(s).	-	-
--USDA Natural Resources Conservation Service Soil Survey.	Hinds County, Mississippi	-
--Photographs	-	-
----Aerial	2007, Hinds County, Color Infrared Imagery (CIR)	-
----Aerial	1998, Digital Orthophoto Quarter Quadrangle (DOQQ)	-
----Aerial	2004-2007, Hinds County, National Agriculture Imagery Program (NAIP)	-
----Other	2008, Various Site Photographs	-
--Applicable/supporting scientific literature	Streams in the Urban Landscape, by Michael J. Paul and Judy L. Meyer Annual Review of Ecology and Systematics © 2001 Annual Reviews	JSTOR

--Applicable/supporting scientific literature	Nonpoint Pollution of Surface Waters with Phosphorus and Nitrogen, by S. R. Carpenter, N. F. Caraco, D. L. Correll, R. W. Howarth, A. N. Sharpley and V. H. Smith Ecological Applications © 1998 Ecological Society of America	JSTOR
--Other information	National Water and Climate Center	Natural Resources Conservation Service

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**

Not Applicable.

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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.
  - 4-Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
  - 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.
  - 7-Ibid.
  - 8-See Footnote #3.
  - 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.