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): 9-4-2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Ohio  County/parish/borough: Columbiana  City: West Point
Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W.
Universal Transverse Mercator:
Name of nearest waterbody: West Fork Little Beaver Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
Name of watershed or Hydrologic Unit Code (HUC): 5030101
☐ 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): January 15, 2014

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 waters² (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: 4,373 linear feet: width (ft) and/or 1.22 acres.
      Wetlands: 1 acres.

   c. Limits (boundaries) of jurisdiction based on: Established by OHWM.
      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: .
   Summarize rationale supporting determination: .

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 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: Pick List
   Average annual rainfall: 38 inches
   Average annual snowfall: 31 inches

   (ii) Physical Characteristics:
   (a) Relationship with TNW:
   □ Tributary flows directly into TNW.
   ☑ Tributary flows through 2 tributaries before entering TNW.
   Project waters are 5-10 river miles from TNW.
   Project waters are Pick List river miles from RPW.
   Project waters are 2-5 aerial (straight) miles from TNW.
   Project waters are Pick List aerial (straight) miles from RPW.
   Project waters cross or serve as state boundaries. Explain: .
   Identify flow route to TNW5: UNT A West Fork Little Beaver Creek flows into W. Fork Little Beaver Creek which flows into Little Beaver Creek.

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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.
Tributary stream order, if known: .

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

Tributary is:

☐ Natural
☒ Manipulated (man-altered). Explain: Stream A appears to have been channelized in some areas.

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

Average width: feet
Average depth: feet
Average side slopes: Pick List.

Primary tributary substrate composition (check all that apply):

☐ Silts
☒ Sands
☐ Concrete
☐ Cobble
☐ Gravel
☐ Muck
☐ Bedrock
☐ Vegetation. Type/cover: .
☐ Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .
Tributary geometry: Relatively straight
Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: Pick List

Estimate average number of flow events in review area/year: Pick List

Describe flow regime: .

Other information on duration and volume: .

Surface flow is: Confined. Characteristics: Confined to the bed and banks of the stream.

Subsurface flow: Pick List. Explain findings: .
☐ Dye (or other) test performed: .

Tributary has (check all that apply):

☒ Bed and banks
☒ OHWM\(^6\) (check all indicators that apply):
☐ clear, natural line impressed on the bank
☐ changes in the character of soil
☐ shelving
☐ vegetation matted down, bent, or absent
☐ leaf litter disturbed or washed away
☐ sediment deposition
☐ water staining
☐ 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):

☐ High Tide Line indicated by:
☐ oil or scum line along shore objects
☐ fine shell or debris deposits (foreshore)
☐ physical markings/characteristics
☐ tidal gauges
☐ other (list):
☐ Mean High Water Mark indicated by:
☐ survey to available datum;
☐ physical markings;
☐ 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: .

\(^6\)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.
(iv) Biological Characteristics. Channel supports (check all that apply):
- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics: Wetlands A, B, C, D, E, and J are all abutting.
- 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: 2.22 acres
  - Wetland type. Explain: PEM/POW.
  - Project wetlands cross or serve as state boundaries. Explain: .
(b) General Flow Relationship with Non-TNW:
  - Flow is: Pick List. Explain: .
    - Surface flow is: Pick List
      - 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: .
    - Separated by bern/barrier. Explain: .
(d) Proximity (Relationship) to TNW:
  - Project wetlands are 5-10 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 Pick List 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: .
  - Habitat for:
    - Federally Listed species. Explain findings: .
    - Fish/spawn areas. Explain findings: .
    - Other environmentally-sensitive species. Explain findings: .
    - Aquatic/wildlife diversity. Explain findings: .

3. Characteristics of all wetlands adjacent to the tributary (if any)
  - All wetland(s) being considered in the cumulative analysis: 8
  - Approximately (2.22) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

<table>
<thead>
<tr>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A Y</td>
<td>0.2</td>
<td>Wetland B Y</td>
<td>0.46</td>
</tr>
<tr>
<td>Wetland C Y</td>
<td>0.02</td>
<td>Wetland D Y</td>
<td>0.22</td>
</tr>
<tr>
<td>Wetland E Y</td>
<td>0.02</td>
<td>Wetland J Y</td>
<td>0.08</td>
</tr>
<tr>
<td>WI-2 Y</td>
<td>0.54</td>
<td>WI-4 Y</td>
<td>0.68</td>
</tr>
</tbody>
</table>

Summarize overall biological, chemical and physical functions being performed: N/A.

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: .

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: Tributary is perennial given site visit and USGS map indicates fairly large drainage area.
   - 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: **4,373** linear feet  width (ft).
- Other non-wetland waters: **acres**.
  Identify type(s) of waters: .

3. **Non-RPWs** 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: **Surface water connection is contiguous from wetland to 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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:  acres.

7. **Impoundments of jurisdictional waters.**
   - 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):**
   - 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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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.
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: Bair, Goodie, and Associates.
☐ 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: .
☐ USGS NHD data. USGS 8 and 12 digit HUC maps.
☐ U.S. Geological Survey map(s). Cite scale & quad name: West Point.
☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
☐ National wetlands inventory map(s). Cite name: .
☐ State/Local wetland inventory map(s): .
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
☐ Photographs: ☑ Aerial (Name & Date): .
☐ 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: .
SECTION I: BACKGROUND INFORMATION
A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 9-8-2014
B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud
C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: Ohio  County/parish/borough: Columbiana  City: West Point
   Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W
   Universal Transverse Mercator:
   Name of nearest waterbody: West Fork Little Beaver Creek
   Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
   Name of watershed or Hydrologic Unit Code (HUC): 5030101
   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): January 15, 2014

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 no “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 waters2 (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: linear feet: width (ft) and/or acres.
         Wetlands: acres.

      c. Limits (boundaries) of jurisdiction based on: Pick List
         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: Stream A1 is a ephemeral nRPW that did not meet the required Significant Nexus Determination and is therefore non jurisdictional.

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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: 
   Summarize rationale supporting determination: 

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 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: 
   Drainage area: 1 acres
   Average annual rainfall: 38 inches
   Average annual snowfall: 31 inches

   (ii) Physical Characteristics:

   (a) Relationship with TNW:

   \[\square\] Tributary flows directly into TNW.
   \[\times\] Tributary flows through 3 tributaries before entering TNW.

   Project waters are 5-10 river miles from TNW.
   Project waters are 1 (or less) river miles from RPW.
   Project waters are 2-5 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\(^5\): UNT A1 flows into UNT A which flows into the West Fork Little Beaver Creek which flows into Little Beaver Creek.

---

\(^4\) 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.
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: feet
- Average depth: feet
- 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: Relatively straight

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: Ephemeral flow

Estimate average number of flow events in review area/year: Pick List

Describe flow regime: 

Other information on duration and volume: 

Surface flow is: Confined. Characteristics: Surface flow is confined to the bed and banks of the stream.

Subsurface flow: Pick List. Explain findings: 
- [ ] Dye (or other) test performed: 

Tributary has (check all that apply):
- [ ] Bed and banks
- [ ] OHWM<sup>6</sup> (check all indicators that apply):
- [ ] clear, natural line impressed on the bank
- [ ] changes in the character of soil
- [ ] shelving
- [ ] vegetation matted down, bent, or absent
- [ ] leaf litter disturbed or washed away
- [ ] sediment deposition
- [ ] water staining
- [ ] other (list):
- [ ] the presence of litter and debris
- [ ] destruction of terrestrial vegetation
- [ ] the presence of wrack line
- [ ] sediment sorting
- [ ] scour
- [ ] multiple observed or predicted flow events
- [ ] abrupt change in plant community
- [ ] other (list):
- [ ] Discontinuous OHWM.<sup>7</sup> 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
- [ ] fine shell or debris deposits (foreshore)
- [ ] physical markings/characteristics
- [ ] tidal gauges
- [ ] other (list):
- [ ] survey to available datum;
- [ ] physical markings;
- [ ] 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: 

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<sup>6</sup>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.

<sup>7</sup>Ibid.
(iv) Biological Characteristics. Channel supports (check all that apply):
- Riparian corridor. Characteristics (type, average width): .
- 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:     acres
- Wetland type. Explain: .
Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:
Flow is: Pick List. Explain: .
Surface flow is: Pick List
  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: .
  - Separated by bern/barrier. Explain: .

(d) Proximity (Relationship) to TNW:
Project wetlands are Pick List river miles from TNW.
Project waters are Pick List aerial (straight) miles from TNW.
Flow is from: Pick List.
Estimate approximate location of wetland as within the Pick List 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: .
- Habitat for:
  - Federally Listed species. Explain findings: .
  - Fish/spawn areas. Explain findings: .
  - Other environmentally-sensitive species. Explain findings: .
  - Aquatic/wildlife diversity. Explain findings: .

3. Characteristics of all wetlands adjacent to the tributary (if any)
All wetland(s) being considered in the cumulative analysis: Pick List
Approximately (     ) acres in total are being considered in the cumulative analysis.
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: Given the small size of stream A1 (95 LF) and the small drainage area, there is little to no capacity for this tributary to carry pollutants or flood waters to the TNW. Being as this tributary is ephemeral no fish or macro invertebrates were found in it. Lifecycle support functions would be extremely limited within a tributary such as this that is dry the majority of the year. A small amount of carbon may be transported by this tributary during heavy rain events but would amount to a negligible percentage for downstream foodwebs. Therefore this UNT does not have more then a speculative or insubstantial effect on the chemical, biological, or physical integrity of the TNW. It is for this reason that this nRPW cannot be taken jurisdiction of.

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:.

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:.
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:  linear feet  width (ft).
- 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:  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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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:  acres.

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.

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8See 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.
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: **Stream A1 did not meet the required Significant Nexus Determination.**
- 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): 95 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:  
- 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: West Point. 
- USDA Natural Resources Conservation Service Soil Survey. Citation:  
- National wetlands inventory map(s). Cite name:  
- State/Local wetland inventory map(s):  
- FEMA/FIRM maps:  
- 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929) 
- Photographs: Aerial (Name & Date):  
  - or Other (Name & Date):  
- Previous determination(s). File no. and date of response letter:  
- Applicable/supporting case law:  
- Applicable/supporting scientific literature:  
B. ADDITIONAL COMMENTS TO SUPPORT JD: 

☐ Other information (please specify): 

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SECTION I: BACKGROUND INFORMATION
A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 9-8-2014
B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud
C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: Ohio   County/parish/borough: Columbiana   City: West Point
   Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W.
   Universal Transverse Mercator:
   Name of nearest waterbody: West Fork Little Beaver Creek
   Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
   Name of watershed or Hydrologic Unit Code (HUC): 5030101
   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): January 15, 2014

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 no “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):  
      - TNWs, including territorial seas
      - Wetlands adjacent to TNWs
      - Relatively permanent waters2 (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: linear feet: width (ft) and/or acres.
      Wetlands: acres.
   c. Limits (boundaries) of jurisdiction based on: Pick List
      Elevation of established OHWM (if known):
2. Non-regulated waters/wetlands (check if applicable):  
   - Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
     Explain: Stream A2 is a ephemeral nRPW that did not meet the required Significant Nexus Determination and is therefore non jurisdictional.

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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 II; otherwise, see Section III.B below.

1. TNW
   Identify TNW: .
   Summarize rationale supporting determination: .

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 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: 1 acres
      Average annual rainfall: 38 inches
      Average annual snowfall: 31 inches

   (ii) Physical Characteristics:
      (a) Relationship with TNW:
         ☐ Tributary flows directly into TNW.
         ☑ Tributary flows through 3 tributaries before entering TNW.
         Project waters are 5-10 river miles from TNW.
         Project waters are 1 (or less) river miles from RPW.
         Project waters are 2-5 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 TNW5: UNT A2 flows into UNT A which flows into the West Fork Little Beaver Creek which flows into Little Beaver Creek.

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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.
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:  feet  
- Average depth:  feet  
- Average side slopes: *Pick List.*  

Primary tributary substrate composition (check all that apply):

- [ ] Silts  
- [ ] Sands  
- [ ] Concrete  
- [ ] Cobble  
- [ ] Gravel  
- [ ] Bedrock  
- [ ] Muck  
- [ ] Vegetation. Type/% cover:  
- [ ] Other. Explain:  

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:  .  
Tributary geometry: *Relatively straight*  
Tributary gradient (approximate average slope):  %  

(c) Flow:

**Tributary provides for:** *Ephemeral flow*  
Estimate average number of flow events in review area/year: *Pick List*  
Describe flow regime:  .  
Other information on duration and volume:  .  
Surface flow is: *Confined.* Characteristics: Surface flow is confined to the bed and banks of the stream.  
Subsurface flow: *Pick List.* Explain findings:  .  
- [ ] Dye (or other) test performed:  .  

Tributary has (check all that apply):

- [ ] Bed and banks  
- [ ] OHWM* (check all indicators that apply):
  - clear, natural line impressed on the bank  
  - changes in the character of soil shelving  
  - vegetation matted down, bent, or absent  
  - leaf litter disturbed or washed away  
  - sediment deposition  
  - water staining  
  - 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):

- [ ] High Tide Line indicated by:  
- [ ] Mean High Water Mark indicated by:
  - oil or scum line along shore objects  
  - fine shell or debris deposits (foreshore)  
  - physical markings/characteristics  
  - tidal gauges  
  - other (list):  

(ii) 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:  .  

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* 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.

* 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: acres
  - Wetland type. Explain:
  - Wetland quality. Explain:

(b) General Flow Relationship with Non-TNW:
- Flow is: Pick List. Explain:
- Surface flow is: Pick List. 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:
  - Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW:
- Project wetlands are Pick List river miles from TNW.
- Project waters are Pick List aerial (straight) miles from TNW.
- Flow is from: Pick List.
- Estimate approximate location of wetland as within the Pick List 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:
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings:

3. Characteristics of all wetlands adjacent to the tributary (if any)
- All wetland(s) being considered in the cumulative analysis: Pick List
- Approximately ( ) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

<table>
<thead>
<tr>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
</tr>
</thead>
</table>

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

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: Given the small size of stream A2 (111 LF) and the small drainage area, there is little to no capacity for this tributary to carry pollutants or flood waters to the TNW. Being as this tributary is ephemeral no fish or macro invertebrates were found in it. Lifecycle support functions would be extremely limited within a tributary such as this that is dry the majority of the year. A small amount of carbon may be transported by this tributary during heavy rain events but would amount to a negligible percentage for downstream foodwebs. Therefore this UNT does not have more then a speculative or insubstantial effect on the chemical, biological, or physical integrity of the TNW. It is for this reason that this nRPW cannot be taken jurisdiction of.

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: .

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:
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: linear feet width (ft).
- Other non-wetland waters: acres.
Identify type(s) of waters:  

3. Non-RPWs\(^8\) 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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:  acres.

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.

\(^8\)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.
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: Stream A2 did
  not meet the required Significant Nexus Determination.
- 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): 111 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: .
- 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: .
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: West Point.
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
  Photographs:  Aerial (Name & Date): .
  or Other (Name & Date): .
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
B. ADDITIONAL COMMENTS TO SUPPORT JD: .
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): 9-8-2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: Ohio  County/parish/borough: Columbiana  City: West Point
   Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W.
   Universal Transverse Mercator:
   Name of nearest waterbody: West Fork Little Beaver Creek
   Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
   Name of watershed or Hydrologic Unit Code (HUC): 5030101
   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): January 15, 2014

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):  
      ☑ TNWs, including territorial seas
      ☑ Wetlands adjacent to TNWs
      ☑ Relatively permanent waters2 (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: 34 linear feet: width (ft) and/or acres.
      Wetlands: acres.

   c. Limits (boundaries) of jurisdiction based on: Pick List
      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: .
   Summarize rationale supporting determination: .

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 waterbody 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: 1 acres
      Average annual rainfall: 38 inches
      Average annual snowfall: 31 inches

   (ii) Physical Characteristics:
      (a) Relationship with TNW:
         ☐ Tributary flows directly into TNW.
         ✗ Tributary flows through 3 tributaries before entering TNW.

         Project waters are 5-10 river miles from TNW.
         Project waters are Pick List river miles from RPW.
         Project waters are 2-5 aerial (straight) miles from TNW.
         Project waters are Pick List aerial (straight) miles from RPW.
         Project waters cross or serve as state boundaries. Explain: .

         Identify flow route to TNW: UNT B flows into UNT A which flows into the West Fork Little Beaver Creek which flows into Little Beaver Creek.

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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.
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: feet  
- Average depth: feet  
- Average side slopes: Pick List.

Primary tributary substrate composition (check all that apply):

- Silts  
- Sands  
- Concrete  
- Cobblels  
- 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: Relatively straight  

Tributary gradient (approximate average slope): %  

(c) Flow:

Tributary provides for: Seasonal flow  

Estimate average number of flow events in review area/year: Pick List  

Describe flow regime:  

Other information on duration and volume:  

Surface flow is: Confined. Characteristics: Flow is confined to the bed and banks of the stream.  

Subsurface flow: Pick List. Explain findings:  

Dye (or other) test performed:  

Tributary has (check all that apply):

- Bed and banks  
- OHWM\(^6\) (check all indicators that apply):
  - the presence of litter and debris  
  - destruction of terrestrial vegetation  
  - the presence of wrack line  
  - sediment sorting  
  - scour  
  - multiple observed or predicted flow events  
  - abrupt change in plant community  
  - sediment deposition  
  - leaf litter disturbed or washed away  
  - vegetation matted down, bent, or absent  
  - changes in the character of soil shelving  
  - vegetation matted down, bent, or absent  
  - clear, natural line impressed on the bank  
  - 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):

- High Tide Line indicated by:  
  - survey to available datum;  
  - fine shell or debris deposits (foreshore)  
  - physical markings;  
  - physical markings/characteristics  
  - vegetation lines/changes in vegetation types.  
- Mean High Water Mark indicated by:  
  - oil or scum line along shore objects  
  - tidal gauges  
  - other (list):  

(ii) 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:  

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\(^6\) 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.
(iv) **Biological Characteristics.** Channel supports (check all that apply):
- ☐ Riparian corridor. Characteristics (type, average width): .
- ☐ 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: acres
  - Wetland type. Explain: .
- Project wetlands cross or serve as state boundaries. Explain: .

(b) **General Flow Relationship with Non-TNW:**
- Flow is: **Pick List**. Explain: .
  - Surface flow is: **Pick List**. Explain: .
  - 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: .
  - Separated by berm/barrier. Explain: .

(d) **Proximity (Relationship) to TNW:**
- Project wetlands are **Pick List** river miles from TNW.
- Project waters are **Pick List** aerial (straight) miles from TNW.
- Flow is from: **Pick List**.
- Estimate approximate location of wetland as within the **Pick List** 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: .
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .
  - ☐ Other environmentally-sensitive species. Explain findings: .
  - ☐ Aquatic/wildlife diversity. Explain findings: .

3. **Characteristics of all wetlands adjacent to the tributary (if any)**
- All wetland(s) being considered in the cumulative analysis: **Pick List**
- Approximately ( ) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

<table>
<thead>
<tr>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
</tr>
</thead>
</table>

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

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: .

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: .
   - 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: This significant nexus determination is a matter of policy and not required as a matter of law because the UNT was found to be a RPW without perennial flow however qualifies as having seasonal flow. Given the connectivity, the tributary does have the capacity to carry pollutants or flood waters to the TNW. The surrounding wetlands work in conjunction with the RPW to reduce the amount of floodwaters and/or pollutants that would reach the TNW. The tributary in question
definitely provides habitat and lifecycle support functions for organisms that are dependent upon it. Nutrients and organic carbon would undoubtedly be transferred to downstream food webs again given the connectivity. Given the volume, duration, and frequency of flow this UNT obviously has more than a speculative or insubstantial effect on the chemical, physical, and biological integrity of Little Beaver Creek.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: 34 linear feet width (ft).
- Other non-wetland waters: acres.
- Identify type(s) of waters: .

3. **Non-RPWs** 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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: acres.

7. **Impoundments of jurisdictional waters.**
   - 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):**

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8See Footnote # 3.
9To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
10Prior 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.
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: 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:.
- 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: West Point.
- USDA Natural Resources Conservation Service Soil Survey. Citation:.
- National wetlands inventory map(s). Cite name:.
- State/Local wetland inventory map(s):.
- FEMA/FIRM maps:.
- 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
  - Photographs: Aerial (Name & Date):.
  - or Other (Name & Date):.
- Previous determination(s). File no. and date of response letter:.
- Applicable/supporting case law:.
- Applicable/supporting scientific literature:.
B. ADDITIONAL COMMENTS TO SUPPORT JD:  

Other information (please specify):  


SECTION I: BACKGROUND INFORMATION
A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 9-8-2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: Ohio  County/parish/borough: Columbiana  City: West Point
   Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W.
   Universal Transverse Mercator:
   Name of nearest waterbody: West Fork Little Beaver Creek
   Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
   Name of watershed or Hydrologic Unit Code (HUC): 5030101
   ☑ 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): January 15, 2014

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 no “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):  
         ☑ TNWs, including territorial seas
         ☑ Wetlands adjacent to TNWs
         ☑ Relatively permanent waters (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: linear feet: width (ft) and/or acres.
         Wetlands: acres.

      c. Limits (boundaries) of jurisdiction based on: Pick List
      Elevation of established OHWM (if known): .

   2. Non-regulated waters/wetlands (check if applicable):  
      ☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
      Explain: Stream C is a ephemeral nRPW that did not meet the required Significant Nexus Determination and is therefore non jurisdictional.

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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: .
   Summarize rationale supporting determination: .

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 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: 1 acres
      Average annual rainfall: 38 inches
      Average annual snowfall: 31 inches

   (ii) Physical Characteristics:
      (a) Relationship with TNW:
         ☐ Tributary flows directly into TNW.
         ☒ Tributary flows through 3 tributaries before entering TNW.
         Project waters are 5-10 river miles from TNW.
         Project waters are 1 (or less) river miles from RPW.
         Project waters are 2-5 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 TNW5: UNT C flows into UNT A which flows into the West Fork Little Beaver Creek which flows into Little Beaver Creek.

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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.
Tributary stream order, if known: .

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

Tributary is: ☒ Natural

Tributary properties with respect to top of bank (estimate):
Average width: feet
Average depth: feet
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: .
Tributary geometry: Relatively straight
Tributary gradient (approximate average slope): %

(c) Flow:
Tributary provides for: Ephemeral flow
Estimate average number of flow events in review area/year: Pick List
Describe flow regime: .
Other information on duration and volume: .
Surface flow is: Confined. Characteristics: Surface flow is confined to the bed and banks of the stream.
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):
☐ 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.7 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: .

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.
(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: acres
- Wetland type. Explain: 
- Wetland quality. Explain: 

Project wetlands cross or serve as state boundaries. Explain: 

(b) General Flow Relationship with Non-TNW:

Flow is: Pick List. Explain: 

Surface flow is: Pick List

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: 
- Separated by berm/barrier. Explain: 

(d) Proximity (Relationship) to TNW:

Project wetlands are Pick List river miles from TNW. 
Project waters are Pick List aerial (straight) miles from TNW. 
Flow is from: Pick List. 

Estimate approximate location of wetland as within the Pick List 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: 
- Habitat for:
  - Federally Listed species. Explain findings: 
  - Fish/spawn areas. Explain findings: 
  - Other environmentally-sensitive species. Explain findings: 
  - Aquatic/wildlife diversity. Explain findings: 

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

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

Approximately ( ) 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)

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

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: Given the small size of stream C (101 LF) and the small drainage area, there is little to no capacity for this tributary to carry pollutants or flood waters to the TNW. Being as this tributary is ephemeral no fish or macro invertebrates were found in it. Lifecycle support functions would be extremely limited within a tributary such as this that is dry the majority of the year. A small amount of carbon may be transported by this tributary during heavy rain events but would amount to a negligible percentage for downstream foodwebs. Therefore this UNT does not have more then a speculative or insubstantial effect on the chemical, biological, or physical integrity of the TNW. It is for this reason that this nRPW cannot be taken jurisdiction of.

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:  .

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:  .
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: linear feet width (ft).
- Other non-wetland waters: acres.
Identify type(s) of waters: .

3. Non-RPWs 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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: acres.

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.

8See 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.
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.
- 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: Stream C did not meet the required Significant Nexus Determination.
- 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): 101 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: ．
- 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: West Point.
- USDA Natural Resources Conservation Service Soil Survey. Citation: ．
- National wetlands inventory map(s). Cite name: ．
- State/Local wetland inventory map(s): ．
- FEMA/FIRM maps: ．
- 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): ．
  or Other (Name & Date): ．
- Previous determination(s). File no. and date of response letter: ．
- Applicable/supporting case law: ．
- Applicable/supporting scientific literature: ．
B. ADDITIONAL COMMENTS TO SUPPORT JD: .

☐ Other information (please specify): .
SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 9-23-2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: Ohio   County/parish/borough: Columbiana   City: West Point
   Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W
   Universal Transverse Mercator:
   Name of nearest waterbody: West Fork Little Beaver Creek
   Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
   Name of watershed or Hydrologic Unit Code (HUC): 5030101
   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): January 15, 2014

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTIOIN.
   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 JURISDICTIOIN.
   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 waters2 (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: 291 linear feet: width (ft) and/or ______ acres.
      Wetlands: ______ acres.

   c. Limits (boundaries) of jurisdiction based on: Pick List
      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: .

Summarize rationale supporting determination: .

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 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: 10 acres

Average annual rainfall: 38 inches

Average annual snowfall: 31 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

☒ Tributary flows through 3 tributaries before entering TNW.

Project waters are 5-10 river miles from TNW.

Project waters are Pick List river miles from RPW.

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

Project waters are Pick List aerial (straight) miles from RPW.

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

Identify flow route to TNW5: UNT D flows into UNT A which flows into the West Fork Little Beaver Creek which flows into Little Beaver Creek.

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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.
Tributary stream order, if known: 

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

Tributary is:  
- Natural
- Artificial (man-made). Explain: 

Tributary properties with respect to top of bank (estimate):
- Average width: feet
- Average depth: feet
- Average side slopes: Pick List.

Primary tributary substrate composition (check all that apply):
- Silts
- Sands
- Cobble
- Gravel
- Bedrock
- Vegetation. Type/cover: 
- Concrete
- Muck
- Other. Explain: 

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: 
Presence of run/riffle/pool complexes. Explain: 
Tributary geometry: Relatively straight
Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: Seasonal flow
Estimate average number of flow events in review area/year: Pick List
Describe flow regime: 
Other information on duration and volume: 
Surface flow is: Confined. Characteristics: Flow is confined to the bed and banks of the stream.
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):
- clear, natural line impressed on the bank
- changes in the character of soil
- shelving
- vegetation matted down, bent, or absent
- leaf litter disturbed or washed away
- sediment deposition
- water staining
- 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):
- High Tide Line indicated by: 
- Mean High Water Mark indicated by: 
- oil or scum line along shore objects
- fine shell or debris deposits (foreshore)
- physical markings/characteristics
- other (list):

(ii) 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: 

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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.
(iv) **Biological Characteristics.** Channel supports (check all that apply):
- [ ] Riparian corridor. Characteristics (type, average width): .
- [ ] 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: acres
- Wetland type. Explain: .
Project wetlands cross or serve as state boundaries. Explain: .

(b) **General Flow Relationship with Non-TNW:**
Flow is: **Pick List.** Explain: .

- Surface flow is: **Pick List**
  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: .
  - Separated by bern/barrier. Explain: .

(d) **Proximity (Relationship) to TNW:**
Project wetlands are **Pick List** river miles from TNW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Flow is from: **Pick List.**
Estimate approximate location of wetland as within the **Pick List** 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: .
- [ ] Habitat for:
  - [ ] Federally Listed species. Explain findings: .
  - [ ] Fish/spawn areas. Explain findings: .
  - [ ] Other environmentally-sensitive species. Explain findings: .
  - [ ] Aquatic/wildlife diversity. Explain findings: .

3. **Characteristics of all wetlands adjacent to the tributary (if any)**
All wetland(s) being considered in the cumulative analysis: **Pick List**
Approximately ( ) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

<table>
<thead>
<tr>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

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: .

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: .
   - 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: This significant nexus determination is a matter of policy and not required as a matter of law because the UNT was found to be a RPW without perennial flow however qualifies as having seasonal flow. Given the connectivity, the tributary does have the capacity to carry pollutants or flood waters to the TNW. The surrounding wetlands work in conjunction with the RPW to reduce the amount of floodwaters and/ or pollutants that would reach the TNW. The tributary in question
definitely provides habitat and lifecycle support functions for organisms that are dependent upon it. Nutrients and organic
carbon would undoubtedly be transferred to downstream food webs again given the connectivity. Given the volume, duration,
and frequency of flow this UNT obviously has more then a speculative or insubstantial effect on the chemical, physical, and
biological integrity of Little Beaver Creek..

Provide estimates for jurisdictional waters in the review area (check all that apply):
☑ Tributary waters: 291 linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .

3. Non-RPWs 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 jurisdictional. Data supporting this
conclusion is provided at Section III.C.

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

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: acres.

7. Impoundments of jurisdictional waters.
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):

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8See Footnote # 3.
9To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
10Prior 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.
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: 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: .
- 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: .
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: West Point.
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): .
- or Other (Name & Date): .
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
B. ADDITIONAL COMMENTS TO SUPPORT JD: 

☐ Other information (please specify): 


SECTION I: BACKGROUND INFORMATION
A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 9-23-2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Ohio   County/parish/borough: Columbiana   City: West Point
Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W.
Universal Transverse Mercator:
Name of nearest waterbody: West Fork Little Beaver Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
Name of watershed or Hydrologic Unit Code (HUC): 5030101
☐ 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): January 15, 2014

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 no “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: linear feet: width (ft) and/or acres.
      Wetlands: acres.
   c. Limits (boundaries) of jurisdiction based on: Pick List
      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: Isolated aquatic resources on this form include streams (Stream E, E1, E2, F, L, and P), wetland (Wetland I), and water impoundments (WI-1 and 3). These resources are completely isolated and have no nexus to a TNW or

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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.
interstate or foreign commerce. The resources are geographically isolated largely due to previous strip mining activities which have occurred on this site. Given the previous strip mining effects on this parcel there is not the possibility of any overland sheetflow to a jurisdictional resource. Again there was no hydrologic connection to a Waters of the U.S. that was noted as a result of the site visit. No ecological connections were noted that were more than speculative. There is no chance for shallow surface flow and the wetlands and water impoundments are not located in a floodplain. Most of these resources flow into isolated impoundments with no evident discharge point.
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: .

   Summarize rationale supporting determination: .

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 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: Pick List
      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: .

         Identify flow route to TNW\(^5\): .
         Tributary stream order, if known: .

\(^4\) 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.
(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:  [ ] feet  
- Average depth:  [ ] feet  
- Average side slopes: **Pick List.**

Primary tributary substrate composition (check all that apply):  
- [ ] Silts  
- [ ] Sands  
- [ ] Cobble  
- [ ] Gravel  
- [ ] 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:** **Pick List**

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\(^6\) (check all indicators that apply):  
  - [ ] clear, natural line impressed on the bank  
  - [ ] changes in the character of soil  
  - [ ] shelving  
  - [ ] vegetation matted down, bent, or absent  
  - [ ] leaf litter disturbed or washed away  
  - [ ] sediment deposition  
  - [ ] water staining  
  - [ ] 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):  
- [ ] High Tide Line indicated by:  
  - oil or scum line along shore objects  
  - fine shell or debris deposits (foreshore)  
  - physical markings/characteristics  
  - other (list):  
- [ ] Mean High Water Mark indicated by:  
  - survey to available datum;  
  - physical markings;  
  - vegetation lines/changes in vegetation types.  

(ii) 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:  

\(^6\)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.
(iv) Biological Characteristics. Channel supports (check all that apply):
- Riparian corridor. Characteristics (type, average width): .
- 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: acres
- Wetland type. Explain: .
Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:
Flow is: Pick List. Explain: .
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: .
  - Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW:
Project wetlands are Pick List river miles from TNW.
Project waters are Pick List aerial (straight) miles from TNW.
Flow is from: Pick List.
Estimate approximate location of wetland as within the Pick List 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: .
- Habitat for:
  - Federally Listed species. Explain findings: .
  - Fish/spawn areas. Explain findings: .
  - Other environmentally-sensitive species. Explain findings: .
  - Aquatic/wildlife diversity. Explain findings: .

3. Characteristics of all wetlands adjacent to the tributary (if any)
All wetland(s) being considered in the cumulative analysis: Pick List
Approximately ( ) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

<table>
<thead>
<tr>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
</tr>
</thead>
</table>

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

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: .

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: .  
   - 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:** linear feet width (ft).
- **Other non-wetland waters:** acres.
- Identify type(s) of waters:  

3. **Non-RPWs** 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 abutting an 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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:  acres.

7. **Impoundments of jurisdictional waters.**

- 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):**

- 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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8See Footnote # 3.

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

10Prior 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.
- Wetlands: acres.

Identify type(s) of waters: .

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): 1563 linear feet width (ft).
- Lakes/ponds: 1.2 acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: 0.17 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: .
- 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: .
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: West Point.
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): .
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: .
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): 9-23-2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Ohio
County/parish/borough: Columbiana
City: West Point
Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W
Universal Transverse Mercator:

Name of nearest waterbody: West Fork Little Beaver Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
Name of watershed or Hydrologic Unit Code (HUC): 5030101

☐ 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): January 15, 2014

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 waters2 (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: 888 linear feet: width (ft) and/or acres.
      Wetlands: 0.7 acres.

   c. Limits (boundaries) of jurisdiction based on: Pick List

      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: 
   Summarize rationale supporting determination:  

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 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: 10 acres
   Average annual rainfall: 38 inches
   Average annual snowfall: 31 inches

   (ii) Physical Characteristics:
   (a) Relationship with TNW:
   □ Tributary flows directly into TNW.
   ☒ Tributary flows through 2 tributaries before entering TNW.
   Project waters are 5-10 river miles from TNW.
   Project waters are Pick List river miles from RPW.
   Project waters are 2-5 aerial (straight) miles from TNW.
   Project waters are Pick List aerial (straight) miles from RPW.
   Project waters cross or serve as state boundaries. Explain:  
   Identify flow route to TNW5: UNT G flows into Longs Run which flows into Little Beaver Creek.
   Tributary stream order, if known:  

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

Tributary is:  ☑ Natural
☑ Artificial (man-made). Explain:  
☑ Manipulated (man-altered). Explain: The stream flows through mine spoils.

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

- Average width:  feet
- Average depth:  feet
- 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: Relatively straight
Tributary gradient (approximate average slope):  %

(c) Flow:

Tributary provides for: Seasonal flow
Estimate average number of flow events in review area/year: Pick List
Describe flow regime:  
Other information on duration and volume:  
Surface flow is: Confined. Characteristics: Flow is confined to the bed and banks of the stream.
Subsurface flow: Pick List. Explain findings:  
Dye (or other) test performed:  
Tributary has (check all that apply):

- ☑ Bed and banks
- ☑ OHWM 6 (check all indicators that apply):
  - ☑ clear, natural line impressed on the bank
  - ☑ changes in the character of soil
  - ☑ vegetation matted down, bent, or absent
  - ☑ leaf litter disturbed or washed away
  - ☑ sediment deposition
  - ☑ water staining
  - ☑ 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):

- ☑ High Tide Line indicated by:
- ☑ Mean High Water Mark indicated by:
  - ☑ oil or scum line along shore objects
  - ☑ fine shell or debris deposits (foreshore)
  - ☑ physical markings/characteristics
  - ☑ tidal gauges
  - ☑ other (list):

(ii) 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:  

---

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.
(iv) Biological Characteristics. Channel supports (check all that apply):
- Riparian corridor. Characteristics (type, average width): .
- Wetland fringe. Characteristics: Wetland G is abutting this channel.
- 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: 0.7 acres
- Wetland type. Explain: PEM.
Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:
Flow is: Intermittent flow. Explain: .
Surface flow is: Pick List
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: .
  - Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW:
Project wetlands are 5-10 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 Pick List 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: .
- Habitat for:
  - Federally Listed species. Explain findings: .
  - Fish/spawn areas. Explain findings: .
  - Other environmentally-sensitive species. Explain findings: .
- Aquatic/wildlife diversity. Explain findings: .

3. Characteristics of all wetlands adjacent to the tributary (if any)
All wetland(s) being considered in the cumulative analysis: 1
Approximately (0.7) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

<table>
<thead>
<tr>
<th>Wetland</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>G</td>
<td>Y</td>
<td>0.7</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Summarize overall biological, chemical and physical functions being performed: N/A.

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: .

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: .

   ☑ 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: This significant nexus determination is a matter of policy and not required as a matter of law because the UNT was found to be a RPW without perennial flow however qualifys as having seasonal flow. Given the connectivity, the tributary does have the capacity to carry pollutants or flood waters to the TNW. The surrounding wetlands work in conjunction with
the RPW to reduce the amount of floodwaters and/or pollutants that would reach the TNW. The tributary in question
definitely provides habitat and lifecycle support functions for organisms that are dependent upon it. Nutrients and organic
carbon would undoubtedly be transferred to downstream food webs again given the connectivity. Given the volume, duration,
and frequency of flow this UNT obviously has more than a speculative or insubstantial effect on the chemical, physical, and
biological integrity of Little Beaver Creek.

Provide estimates for jurisdictional waters in the review area (check all that apply):
- Tributary waters: **888** linear feet width (ft).
- Other non-wetland waters: _____ acres.
- Identify type(s) of waters: _____.

3. Non-RPWs\(^8\) 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: Surface water connection is contiguous between the wetland and seasonal RPW.

Provide acreage estimates for jurisdictional wetlands in the review area: **0.7** 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: _____ acres.

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: _____ acres.

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):\(^10\)

---

\(^8\)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.
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.
- 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:  
- 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: West Point.
- USDA Natural Resources Conservation Service Soil Survey. Citation:  
- National wetlands inventory map(s). Cite name:  
- State/Local wetland inventory map(s):  
- FEMA/FIRM maps:  
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929) 
  - Photographs: Aerial (Name & Date):
  - or Other (Name & Date):  
- Previous determination(s). File no. and date of response letter:  

B. ADDITIONAL COMMENTS TO SUPPORT JD:  

- Applicable/supporting case law: 
- Applicable/supporting scientific literature: 
- Other information (please specify): 

SECTION I: BACKGROUND INFORMATION
A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 9-23-2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Ohio   County/parish/county: Columbiana  City: West Point
Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W
Universal Transverse Mercator:
Name of nearest waterbody: West Fork Little Beaver Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
Name of watershed or Hydrologic Unit Code (HUC): 5030101
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): January 15, 2014

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):  
      [ ] TNWs, including territorial seas
      [ ] Wetlands adjacent to TNWs
      [ ] Relatively permanent waters2 (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: 179 linear feet: width (ft) and/or acres.
      Wetlands: 0.34 acres.

   c. Limits (boundaries) of jurisdiction based on: Pick List
      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: 
   Summarize rationale supporting determination: 

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 waterbody 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: 10 acres
      Average annual rainfall: 38 inches
      Average annual snowfall: 31 inches

   (ii) Physical Characteristics:
      (a) Relationship with TNW:
         ☐ Tributary flows directly into TNW.
         ☑ Tributary flows through 3 tributaries before entering TNW.

         Project waters are 5-10 river miles from TNW.
         Project waters are Pick List river miles from RPW.
         Project waters are 2-5 aerial (straight) miles from TNW.
         Project waters are Pick List aerial (straight) miles from RPW.
         Project waters cross or serve as state boundaries. Explain:

         Identify flow route to TNW: UNT G1 flows into UNT G which flows into Longs Run which flows into Little Beaver Creek.

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.
Tributary stream order, if known:  .

(b) General Tributary Characteristics (check all that apply):
   Tributary is:  ☒ Natural  
   ☐ Manipulated (man-altered). Explain: The stream flows through mine spoils.

   Tributary properties with respect to top of bank (estimate):
   Average width: feet  
   Average depth: feet  
   Average side slopes: Pick List.

   Primary tributary substrate composition (check all that apply):
   ☐ Silts  ☒ Sands  ☐ Concrete  
   ☐ Cobbles  ☒ Gravel  ☐ Muck  
   ☐ Bedrock  ☐ Vegetation. Type/% cover:  .

   Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:  .
   Tributary geometry: Relatively straight
   Tributary gradient (approximate average slope):  %

(c) Flow:
   Tributary provides for: Seasonal flow
   Estimate average number of flow events in review area/year: Pick List
   Describe flow regime:  .
   Other information on duration and volume:  .

   Surface flow is: Confined. Characteristics: Flow is confined to the bed and banks of the stream.

   Subsurface flow: Pick List. Explain findings:  .
   ☐ Dye (or other) test performed:  .

   Tributary has (check all that apply):
   ☒ Bed and banks  ☒ OHWM 4 (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. 7 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:  .

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4A 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.
(iv) Biological Characteristics. Channel supports (check all that apply):
- Riparian corridor. Characteristics (type, average width): .
- Wetland fringe. Characteristics: Wetland F is abutting this channel.
- 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: 0.34 acres
  - Wetland type. Explain: PEM.
  Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:
  Flow is: Intermittent flow. Explain: .
  Surface flow is: Pick List
  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: .
    - Separated by bern/barrier. Explain: .

(d) Proximity (Relationship) to TNW:
  Project wetlands are 5-10 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 Pick List 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: .
  - Habitat for:
    - Federally Listed species. Explain findings: .
    - Fish/spawn areas. Explain findings: .
    - Other environmentally-sensitive species. Explain findings: .
    - Aquatic/wildlife diversity. Explain findings: .

3. Characteristics of all wetlands adjacent to the tributary (if any)
  All wetland(s) being considered in the cumulative analysis: 1
  Approximately (0.34) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

<table>
<thead>
<tr>
<th>Wetland</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>F</td>
<td>Y</td>
<td>0.34</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Summarize overall biological, chemical and physical functions being performed: N/A.

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: .

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: .
   - 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: This significant nexus determination is a matter of policy and not required as a matter of law because the UNT was found to be a RPW without perennial flow however qualifies as having seasonal flow. Given the connectivity, the tributary does have the capacity to carry pollutants or flood waters to the TNW. The surrounding wetlands work in conjunction with
the RPW to reduce the amount of floodwaters and/or pollutants that would reach the TNW. The tributary in question definitely provides habitat and lifecycle support functions for organisms that are dependent upon it. Nutrients and organic carbon would undoubtedly be transferred to downstream food webs again given the connectivity. Given the volume, duration, and frequency of flow this UNT obviously has more then a speculative or insubstantial effect on the chemical, physical, and biological integrity of Little Beaver Creek.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: 179 linear feet width (ft).
- Other non-wetland waters: acres.
Identify type(s) of waters:

3. Non-RPWs\(^8\) 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: Surface water connection is contiguous between the wetland and seasonal RPW.

Provide acreage estimates for jurisdictional wetlands in the review area: 0.34 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: acres.

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: acres.

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):\(^10\)

---

\(^8\) 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.
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.
- 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.
- 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.
- 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:  .
√ 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:  .
√ USGS NHD data.
√ USGS 8 and 12 digit HUC maps.
√ U.S. Geological Survey map(s). Cite scale & quad name: West Point.
√ USDA Natural Resources Conservation Service Soil Survey. Citation:  .
√ National wetlands inventory map(s). Cite name:  .
√ State/Local wetland inventory map(s):  .
√ FEMA/FIRM maps:  .
√ 100-year Floodplain Elevation is:  (National Geodetic Vertical Datum of 1929)
√ Photographs:  √ Aerial (Name & Date):  .
  or  √ Other (Name & Date):  .
√ Previous determination(s). File no. and date of response letter:  .
B. ADDITIONAL COMMENTS TO SUPPORT JD:  

☐ Applicable/supporting case law:  
☐ Applicable/supporting scientific literature:  
☐ Other information (please specify):  

SECTION I: BACKGROUND INFORMATION
A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 9-23-2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Ohio    County/parish/borough: Columbiana    City: West Point
Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W
Universal Transverse Mercator:
Name of nearest waterbody: West Fork Little Beaver Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
Name of watershed or Hydrologic Unit Code (HUC): 5030101
☐ 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): January 15, 2014

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 no “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):  
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☐ Relatively permanent waters² (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: linear feet: width (ft) and/or acres.
      Wetlands: acres.

   c. Limits (boundaries) of jurisdiction based on: Pick List
      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: Stream G2 is a ephemeral nRPW that did not meet the required Significant Nexus Determination and is therefore non jurisdictional.

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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:

   Summarize rationale supporting determination:

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 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: 1 acres
      Average annual rainfall: 38 inches
      Average annual snowfall: 31 inches

   (ii) Physical Characteristics:
      (a) Relationship with TNW:
         ☑ Tributary flows directly into TNW.
         ☑ Tributary flows through 3 tributaries before entering TNW.

         Project waters are 5-10 river miles from TNW.
         Project waters are 1 (or less) river miles from RPW.
         Project waters are 2-5 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 TNW⁵: UNT G2 flows into UNT G which flows into Longs Run which flows into Little Beaver Creek.

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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.
Tributary stream order, if known: .

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

Tributary is: ☒ Natural

Tributary properties with respect to top of bank (estimate):
Average width:  feet
Average depth:  feet
Average side slopes: Pick List.

Primary tributary substrate composition (check all that apply):
☐ Silts  ☐ Sands
☐ Cobble  ☐ Gravel
☐ Bedrock  ☐ Vegetation. Type/% cover:
☐ Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .
Tributary geometry: Relatively straight
Tributary gradient (approximate average slope):  %

(c) Flow:
Tributary provides for: Ephemerol flow
Estimate average number of flow events in review area/year: Pick List
Describe flow regime: .
Other information on duration and volume: .
Surface flow is: Confined. Characteristics: Surface flow is confined to the bed and banks of the stream.
Subsurface flow: Pick List. Explain findings: .
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☒ Bed and banks
☒ OHWM 6 (check all indicators that apply):
☐ clear, natural line impressed on the bank
☐ changes in the character of soil
☐ shelving
☐ vegetation matted down, bent, or absent
☐ leaf litter disturbed or washed away
☐ sediment deposition
☐ water staining
☐ other (list):  the presence of litter and debris
☐ destruction of terrestrial vegetation
☐ the presence of wrack line
☐ sediment sorting
☐ scour
☐ multiple observed or predicted flow events
☐ abrupt change in plant community
☐ Discontinuous OHWM. 7 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
☐ fine shell or debris deposits (foreshore)
☐ physical markings/characteristics
☐ 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: .

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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.
(iv) Biological Characteristics. Channel supports (check all that apply):
☐ Riparian corridor. Characteristics (type, average width): .
☐ 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:     acres
  Wetland type. Explain: .
  Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:
  Flow is: Pick List. Explain: .
  Surface flow is: Pick List
  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: .
  ☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW:
  Project wetlands are Pick List river miles from TNW.
  Project waters are Pick List aerial (straight) miles from TNW.
  Flow is from: Pick List.
  Estimate approximate location of wetland as within the Pick List 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: .
  ☐ Habitat for:
    ☐ Federally Listed species. Explain findings: .
    ☐ Fish/spawn areas. Explain findings: .
    ☐ Other environmentally-sensitive species. Explain findings: .
    ☐ Aquatic/wildlife diversity. Explain findings: .

3. Characteristics of all wetlands adjacent to the tributary (if any)
   All wetland(s) being considered in the cumulative analysis: Pick List
   Approximately ( ) acres in total are being considered in the cumulative analysis.
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: Given the small size of stream G2 (64 LF) and the small drainage area, there is little to no capacity for this tributary to carry pollutants or flood waters to the TNW. Being as this tributary is ephemeral no fish or macro invertebrates were found in it. Lifecycle support functions would be extremely limited within a tributary such as this that is dry the majority of the year. A small amount of carbon may be transported by this tributary during heavy rain events but would amount to a negligible percentage for downstream foodwebs. Therefore this UNT does not have more then a speculative or insubstantial effect on the chemical, biological, or physical integrity of the TNW. It is for this reason that this nRPW cannot be taken jurisdiction of.

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: .

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: .
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: linear feet width (ft).
- Other non-wetland waters: acres.
  Identify type(s) of waters: .

3. **Non-RPWs** 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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: acres.

7. **Impoundments of jurisdictional waters.**

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):**

- which are or could be used by interstate or foreign travelers for recreational or other purposes.

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8See Footnote # 3.
9To 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.
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: Stream G2 did not meet the required Significant Nexus Determination.
- 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): 64 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: .
- 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: .
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: West Point.
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): .
  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: 

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): 10-22-2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: Ohio   County/parish/borough: Columbiana   City: West Point
   Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W.
   Universal Transverse Mercator:
   Name of nearest waterbody: West Fork Little Beaver Creek
   Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
   Name of watershed or Hydrologic Unit Code (HUC): 5030101
   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): January 15, 2014

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): 
         - TNWs, including territorial seas
         - Wetlands adjacent to TNWs
         - Relatively permanent waters (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: 311 linear feet: width (ft) and/or acres.
         Wetlands: acres.
   
      c. Limits (boundaries) of jurisdiction based on: Pick List
         Elevation of established OHWM (if known): .
   
   2. Non-regulated waters/wetlands (check if applicable): 
      Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: .

---

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: ____________________________.
   Summarize rationale supporting determination: ____________________________.

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 waterbody 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, 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: 1 acres
       Average annual rainfall: 38 inches
       Average annual snowfall: 31 inches

   (ii) Physical Characteristics:
       (a) Relationship with TNW:
           ☐ Tributary flows directly into TNW.
           ☑ Tributary flows through 3 tributaries before entering TNW.

           Project waters are 5-10 river miles from TNW.
           Project waters are 1 (or less) river miles from RPW.
           Project waters are 2-5 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: UNT H flows into UNT G which flows into Longs Run which flows into Little Beaver Creek.

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.
Tributary stream order, if known: .

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

Tributary is: 
- [ ] Natural

Tributary properties with respect to top of bank (estimate):
- Average width: feet
- Average depth: feet
- Average side slopes: Pick List.

Primary tributary substrate composition (check all that apply):
- [ ] Silts
- [ ] Sands
- [ ] Concrete
- [ ] Cobble
- [ ] Gravel
- [ ] Muck
- [ ] Bedrock
- [ ] Vegetation. Type/cover:
- [ ] Other. Explain: .

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


Tributary geometry: Relatively straight

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: Ephemeral flow

Estimate average number of flow events in review area/year: Pick List

Describe flow regime: .

Other information on duration and volume: .

Surface flow is: Confined. Characteristics: Surface flow is confined to the bed and banks of the stream.

Subsurface flow: Pick List. Explain findings: .

- [ ] Dye (or other) test performed: .

Tributary has (check all that apply):
- [ ] Bed and banks
- [ ] OHWM\(^6\) (check all indicators that apply):
  - clear, natural line impressed on the bank
  - changes in the character of soil
  - shelving
  - vegetation matted down, bent, or absent
  - leaf litter disturbed or washed away
  - sediment deposition
  - water staining
  - 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):
- [ ] High Tide Line indicated by: oil or scum line along shore objects
- [ ] Mean High Water Mark indicated by: physical markings
- [ ] survey to available datum;
- [ ] physical markings;
- [ ] 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: .

---

\(^6\) 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.
(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: acres
      - Wetland type. Explain:
      - Wetland quality. Explain:
      Project wetlands cross or serve as state boundaries. Explain:

   (b) General Flow Relationship with Non-TNW:
      Flow is: **Pick List**. Explain:
      Surface flow is: **Pick List** | 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:
        - Separated by berm/barrier. Explain:

   (d) Proximity (Relationship) to TNW:
      Project wetlands are **Pick List** river miles from TNW.
      Project waters are **Pick List** aerial (straight) miles from TNW.
      Flow is from: **Pick List**.
      Estimate approximate location of wetland as within the **Pick List** 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:
      - Habitat for:
        - Federally Listed species. Explain findings:
        - Fish/spawn areas. Explain findings:
        - Other environmentally-sensitive species. Explain findings:
        - Aquatic/wildlife diversity. Explain findings:

3. **Characteristics of all wetlands adjacent to the tributary (if any)**
   All wetland(s) being considered in the cumulative analysis: **Pick List**
   Approximately (     ) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

<table>
<thead>
<tr>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
</tr>
</thead>
</table>

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

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: Stream H has somewhat well defined bed and banks and an OHWM that would undoubtedly convey water to the downstream TNW that is 5-10 miles away. Given the bed and banks, this tributary would have the capacity to transport pollutants and floodwaters to the downstream TNW as well. While some lifecycle support functions would be somewhat limited, due to the streams ephemeral classification, this tributary definitely transports carbon to downstream foodwebs when flowing. Additionally substrate would be transported during high flow as well as heavy rainwater. Therefore this nRPW does have more than a speculative or insubstantial effect on the chemical, biological, or physical integrity of the TNW. It is for this reason that this nRPW can be taken jurisdiction of.

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: .

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: .
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: linear feet width (ft).
- Other non-wetland waters: acres.
Identify type(s) of waters:

3. Non-RPWs 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: 311 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:

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:

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:

7. Impoundments of jurisdictional waters.
☐ 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.

8See 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.
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: 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: .
☒ 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: .
☐ USGS NHD data.
☐ USGS 8 and 12 digit HUC maps.
☐ U.S. Geological Survey map(s). Cite scale & quad name: West Point.
☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
☐ National wetlands inventory map(s). Cite name: .
☐ State/Local wetland inventory map(s): .
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): .
  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: .
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): 10-22-2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Ohio   County/parish/borough: Columbiana   City: West Point
Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W
Universal Transverse Mercator:
Name of nearest waterbody: West Fork Little Beaver Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
Name of watershed or Hydrologic Unit Code (HUC): 5030101
☐ 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): January 15, 2014

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 waters2 (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: 352 linear feet: width (ft) and/or       acres.
      Wetlands:       acres.

   c. Limits (boundaries) of jurisdiction based on: Pick List
      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: .

---

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: .
   Summarize rationale supporting determination: .

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 waterbody 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: 1 acres
   Average annual rainfall: 38 inches
   Average annual snowfall: 31 inches

(ii) Physical Characteristics:
   (a) Relationship with TNW:
      
      [ ] Tributary flows directly into TNW.
      [x] Tributary flows through 3 tributaries before entering TNW.

      Project waters are 5-10 river miles from TNW.
      Project waters are 1 (or less) river miles from RPW.
      Project waters are 2-5 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: UNT I flows into UNT G which flows into Longs Run which flows into Little Beaver Creek.

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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.
Tributary stream order, if known:  .

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

Tributary is:  ☒ Natural

Tributary properties with respect to top of bank (estimate):
Average width:  feet
Average depth:  feet
Average side slopes:  Pick List.

Primary tributary substrate composition (check all that apply):
☐ Silts
☐ Sands
☐ Concrete
☐ Cobble
☐ Gravel
☐ Muck
☐ Bedrock
☐ Vegetation. Type/% cover:
☐ Other. Explain:  .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:  .
Tributary geometry:  Relatively straight
Tributary gradient (approximate average slope):  %

(c) Flow:

Tributary provides for:  Ephemeral flow
Estimate average number of flow events in review area/year:  Pick List
Describe flow regime:  .
Other information on duration and volume:  .
Surface flow is:  Confined. Characteristics: Surface flow is confined to the bed and banks of the stream.
Subsurface flow:  Pick List. Explain findings:  .
☐ Dye (or other) test performed:  .

Tributary has (check all that apply):
☒ Bed and banks
☒ OHWM\(^6\) (check all indicators that apply):
☒ clear, natural line impressed on the bank
☒ destruction of terrestrial vegetation
☒ changes in the character of soil
☒ the presence of litter and debris
☒ shelving
☒ sediment sorting
☒ vegetation matted down, bent, or absent
☒ scour
☒ sediment deposition
☒ multiple observed or predicted flow events
☒ water staining
☒ abrupt change in plant community
☒ sediment deposition
☒ 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):
☐ 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):

(ii) 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:  .

\(^6\)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.
(iv) Biological Characteristics. Channel supports (check all that apply):
- Riparian corridor. Characteristics (type, average width): .
- 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:    acres
  - Wetland type. Explain: .
  Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:
Flow is: Pick List. Explain: .
  Surface flow is: Pick List
  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: .
  - Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW:
Project wetlands are Pick List river miles from TNW.
Project waters are Pick List aerial (straight) miles from TNW.
Flow is from: Pick List.
Estimate approximate location of wetland as within the Pick List 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: .
- Habitat for:
  - Federally Listed species. Explain findings: .
  - Fish/spawn areas. Explain findings: .
  - Other environmentally-sensitive species. Explain findings: .
  - Aquatic/wildlife diversity. Explain findings: .

3. Characteristics of all wetlands adjacent to the tributary (if any)
All wetland(s) being considered in the cumulative analysis: Pick List
Approximately (    ) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

- Directly abuts? (Y/N)
- Size (in acres)

Summarize overall biological, chemical and physical functions being performed:  

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: Stream I has somewhat well defined bed and banks and an OHWM that would undoubtedly convey water to the downstream TNW that is 5-10 miles away. Given the bed and banks, this tributary would have the capacity to transport pollutants and floodwaters to the downstream TNW as well. While some lifecycle support functions would be somewhat limited, due to the streams ephemeral classification, this tributary definitely transports carbon to downstream foodwebs when flowing. Additionally substrate would be transported during high flow as well as heavy rainwater. Therefore this nRPW does have more than a speculative or insubstantial effect on the chemical, biological, or physical integrity of the TNW. It is for this reason that this nRPW can be taken jurisdiction of.

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:

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.
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: linear feet width (ft).
- Other non-wetland waters: acres.

Identify type(s) of waters: .

3. Non-RPWs\(^3\) 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: 352 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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: acres.

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.

\(^3\)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.
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.
- 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:
- 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: West Point.
- USDA Natural Resources Conservation Service Soil Survey. Citation:
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date):
- 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:

.
SECTION I: BACKGROUND INFORMATION
A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 9-23-2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Ohio  County/parish/borough: Columbiana  City: West Point
Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W
Universal Transverse Mercator: Name of nearest waterbody: West Fork Little Beaver Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
Name of watershed or Hydrologic Unit Code (HUC): 5030101

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
Office (Desk) Determination. Date:
Field Determination. Date(s): January 15, 2014

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 waters² (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: 907 linear feet: width (ft) and/or acres.
   - Wetlands: acres.

c. Limits (boundaries) of jurisdiction based on: Pick List
   - 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:

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: 

   Summarize rationale supporting determination: 

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 waterbody 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: 
      Drainage area: 10 acres
      Average annual rainfall: 38 inches
      Average annual snowfall: 31 inches

   (ii) Physical Characteristics:

      (a) Relationship with TNW:

         □ Tributary flows directly into TNW.
         ✔ Tributary flows through 3 tributaries before entering TNW.

         Project waters are 5-10 river miles from TNW.
         Project waters are Pick List river miles from RPW.
         Project waters are 2-5 aerial (straight) miles from TNW.
         Project waters are Pick List aerial (straight) miles from RPW.
         Project waters cross or serve as state boundaries. Explain:

         Identify flow route to TNW: UNT J flows into UNT G which flows into Longs Run which flows into Little Beaver Creek.

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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.
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.

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: acres
- Wetland type. Explain:
- Wetland quality. Explain:
Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:
Flow is: Pick List. Explain:
- Surface flow is: Pick List
  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:
  - Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW:
Project wetlands are Pick List river miles from TNW.
Project waters are Pick List aerial (straight) miles from TNW.
Flow is from: Pick List.
Estimate approximate location of wetland as within the Pick List 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:
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings:

3. Characteristics of all wetlands adjacent to the tributary (if any)
All wetland(s) being considered in the cumulative analysis: Pick List
Approximately (       ) 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)

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

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:

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: ______.
   ❌ 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: This significant nexus determination is a matter of policy and not required as a matter of law because the UNT was found to be a RPW without perennial flow however qualifies as having seasonal flow. Given the connectivity, the tributary does have the capacity to carry pollutants or flood waters to the TNW. The surrounding wetlands work in conjunction with the RPW to reduce the amount of floodwaters and/or pollutants that would reach the TNW. The tributary in question
definitely provides habitat and lifecycle support functions for organisms that are dependent upon it. Nutrients and organic carbon would undoubtedly be transferred to downstream food webs again given the connectivity. Given the volume, duration, and frequency of flow this UNT obviously has more than a speculative or insubstantial effect on the chemical, physical, and biological integrity of Little Beaver Creek.

Provide estimates for jurisdictional waters in the review area (check all that apply):
- Tributary waters: 907 linear feet \( \times \) width (ft).
- Other non-wetland waters: acres.
- Identify type(s) of waters: .

3. **Non-RPWs\(^9\) 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 \( \times \) 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.

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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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: acres.

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):**\(^10\)

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\(^8\)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.
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: 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:
- 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: West Point.
- USDA Natural Resources Conservation Service Soil Survey. Citation:
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date):
  or Other (Name & Date):
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
B. ADDITIONAL COMMENTS TO SUPPORT JD:
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): 10-22-2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: Ohio  County/parish/borough: Columbiana  City: West Point
   Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W
   Universal Transverse Mercator:
   Name of nearest waterbody: West Fork Little Beaver Creek
   Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
   Name of watershed or Hydrologic Unit Code (HUC): 5030101
   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): January 15, 2014

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 waters2 (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: 526 linear feet: width (ft) and/or acres.
         Wetlands: acres.

      c. Limits (boundaries) of jurisdiction based on: Pick List
         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: .

---

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: .
   Summarize rationale supporting determination: .

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 waterbody does not flow directly into a TNW 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: 1 acres
   Average annual rainfall: 38 inches
   Average annual snowfall: 31 inches

(ii) Physical Characteristics:
   (a) Relationship with TNW:
      □ Tributary flows directly into TNW.
      ✗ Tributary flows through 4 tributaries before entering TNW.
      Project waters are 5-10 river miles from TNW.
      Project waters are 1 (or less) river miles from RPW.
      Project waters are 2-5 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: UNT J1 flows into UNT J which flows into UNT G which flows into Longs Run which flows into Little Beaver Creek.

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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.
(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: feet  
Average depth: feet  
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: Relatively straight  
Tributary gradient (approximate average slope): %  

(c) Flow:  
Tributary provides for: Ephemeral flow  
Estimate average number of flow events in review area/year: Pick List  
Describe flow regime:  
Other information on duration and volume:  
Surface flow is: Confined. Characteristics: Surface flow is confined to the bed and banks of the stream.  
Subsurface flow: Pick List. Explain findings:  
☐ Dye (or other) test performed:  

Tributary has (check all that apply):  
☑ Bed and banks  
☑ OHWM\(^4\) (check all indicators that apply):  
☑ clear, natural line impressed on the bank  
☐ changes in the character of soil shelving  
☐ vegetation matted down, bent, or absent leaf litter disturbed or washed away sediment deposition water staining other (list):  
☐ the presence of litter and debris  
☐ destruction of terrestrial vegetation  
☐ the presence of wrack line sediment sorting scour multiple observed or predicted flow events abrupt change in plant community  
☐ Discontinuous OHWM.\(^7\) 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  
☐ fine shell or debris deposits (foreshore)  
☐ physical markings/characteristics  
☐ tidal gauges other (list):  
☐ survey to available datum;  
☐ physical markings;  
☐ 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:  

\(^4\) 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.
(iv) Biological Characteristics. Channel supports (check all that apply):

- Riparian corridor. Characteristics (type, average width): .
- 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: acres
  - Wetland type. Explain: .
  - Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:

- Flow is: Pick List. Explain: .

- Surface flow is: Pick List
  - 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: .
  - Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW:

- Project wetlands are Pick List river miles from TNW.
- Project waters are Pick List aerial (straight) miles from TNW.
- Flow is from: Pick List.
- Estimate approximate location of wetland as within the Pick List 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: .
- Habitat for:
  - Federally Listed species. Explain findings: .
  - Fish/spawn areas. Explain findings: .
  - Other environmentally-sensitive species. Explain findings: .
  - Aquatic/wildlife diversity. Explain findings: .

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

- All wetland(s) being considered in the cumulative analysis: Pick List
- Approximately ( ) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

<table>
<thead>
<tr>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
</tr>
</thead>
</table>

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

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: Stream J1 has somewhat well defined bed and banks and an OHWM that would undoubtedly convey water to the downstream TNW that is 5-10 miles away. Given the bed and banks, this tributary would have the capacity to transport pollutants and floodwaters to the downstream TNW as well. While some lifecycle support functions would be somewhat limited, due to the stream's ephemeral classification, this tributary definitely transports carbon to downstream foodwebs when flowing. Additionally substrate would be transported during high flow as well as heavy rainwater. Therefore this nonRPW does have more than a speculative or insubstantial effect on the chemical, biological, or physical integrity of the TNW. It is for this reason that this nonRPW can be taken jurisdiction of.

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:

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:
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: linear feet width (ft).
- Other non-wetland waters: acres.
Identify type(s) of waters: .

3. Non-RPWs 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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: acres.

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.

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9See Footnote # 3.
10To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
11Prior 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.
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: 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: .
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: .
USGS NHD data.
USGS 8 and 12 digit HUC maps.
U.S. Geological Survey map(s). Cite scale & quad name: West Point.
USDA Natural Resources Conservation Service Soil Survey. Citation: .
National wetlands inventory map(s). Cite name: .
State/Local wetland inventory map(s): .
FEMA/FIRM maps: .
100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
Photographs: Aerial (Name & Date): .
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: .
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): 9-23-2014
B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud
C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: Ohio   County/parish/borough: Columbiana   City: West Point
   Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W
   Universal Transverse Mercator:
   Name of nearest waterbody: West Fork Little Beaver Creek
   Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
   Name of watershed or Hydrologic Unit Code (HUC): 5030101
   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): January 15, 2014

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):  
      - TNWs, including territorial seas
      - Wetlands adjacent to TNWs
      - Relatively permanent waters (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: 372 linear feet: width (ft) and/or acres.
      Wetlands: 0.04 acres.
   c. Limits (boundaries) of jurisdiction based on: Pick List
      Elevation of established OHWM (if known):
      .
2. Non-regulated waters/wetlands (check if applicable):
   - Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain:

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:  .
   Summarize rationale supporting determination:  .

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 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: 10 acres
      Average annual rainfall: 38 inches
      Average annual snowfall: 31 inches

   (ii) Physical Characteristics:
      (a) Relationship with TNW:
         □ Tributary flows directly into TNW.
         ☑ Tributary flows through 2 tributaries before entering TNW.

         Project waters are 5-10 river miles from TNW.
         Project waters are Pick List river miles from RPW.
         Project waters are 2-5 aerial (straight) miles from TNW.
         Project waters are Pick List aerial (straight) miles from RPW.
         Project waters cross or serve as state boundaries. Explain:  .

         Identify flow route to TNW5: UNT K flows into the West Fork Little Beaver Creek which flows into Little Beaver Creek.
         Tributary stream order, if known:  .

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

Tributary is:  
- Natural

Tributary properties with respect to top of bank (estimate):
- Average width:  feet
- Average depth:  feet
- 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:  .
Tributary geometry: Relatively straight
Tributary gradient (approximate average slope):  %

(c) Flow:
Tributary provides for: Seasonal flow
Estimate average number of flow events in review area/year: Pick List
Describe flow regime:  .
Other information on duration and volume:  .
Surface flow is: Confined. Characteristics: Flow is confined to the bed and banks of the stream.
Subsurface flow: Pick List. Explain findings:  .
  - Dye (or other) test performed:  .
Tributary has (check all that apply):
- Bed and banks
- OHWM\(^6\) (check all indicators that apply):
  - clear, natural line impressed on the bank
  - changes in the character of soil
  - shelving
  - vegetation matted down, bent, or absent
  - leaf litter disturbed or washed away
  - sediment deposition
  - water staining
  - 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):
- High Tide Line indicated by:
- Mean High Water Mark indicated by:
  - oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - 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:  .

\(^6\)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.
(iv) Biological Characteristics. Channel supports (check all that apply):
- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics: Wetland H is adjacent to this UNT.
- 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: 0.04 acres
- Wetland type. Explain: PEM.
- Wetland quality. Explain:
Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:
Flow is: Pick List. Explain:
- Surface flow is: Pick List
  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: Wetland H is just upslope of UNT K.
  - Ecological connection. Explain:
  - Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW:
Project wetlands are 5-10 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 Pick List 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:
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings:

3. Characteristics of all wetlands adjacent to the tributary (if any)
All wetland(s) being considered in the cumulative analysis: 1
Approximately (0.04) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

<table>
<thead>
<tr>
<th>Wetland</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>H</td>
<td>N</td>
<td>0.04</td>
</tr>
</tbody>
</table>

Summarize overall biological, chemical and physical functions being performed: N/A.

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: Wetland H is adjacent to UNT K. This wetland provides habitat for various macro and microorganisms as well as the essential lifecycle support functions for the organisms that thrive within it. This wetland would also serve to store floodwaters and help recharge ground water preventing flooding. Likewise the wetland would help eliminate pollutants before entering the water table and thus polluting other tributaries and TNWs. Therefore wetland H has more than a speculative or insubstantial effect on the chemical, biological, or physical integrity of the TNW and is jurisdictional..

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: .
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: This significant nexus determination is a matter of policy and not required as a matter of law because the UNT was found to be a RPW without perennial flow however qualifies as having seasonal flow. Given the connectivity, the tributary does have the capacity to carry pollutants or flood waters to the TNW. The surrounding wetlands work in conjunction with the RPW to reduce the amount of floodwaters and/or pollutants that would reach the TNW. The tributary in question definitely provides habitat and lifecycle support functions for organisms that are dependent upon it. Nutrients and organic carbon would undoubtedly be transferred to downstream food webs again given the connectivity. Given the volume, duration, and frequency of flow this UNT obviously has more then a speculative or insubstantial effect on the chemical, physical, and biological integrity of Little Beaver Creek.

Provide estimates for jurisdictional waters in the review area (check all that apply):
- Tributary waters: 372 linear feet width (ft).
- Other non-wetland waters: acres. 
  Identify type(s) of waters: .

3. **Non-RPWs**\(^8\) 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 abutting an 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.
   
   Provide acreage estimates for jurisdictional wetlands in the review area: 0.04 acres.

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: acres.

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).

\(^{8}\)See Footnote # 3.

\(^{9}\) To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
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):  
- 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: 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: .  
- 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: .  
- USGS NHD data.  
- USGS 8 and 12 digit HUC maps.  
- U.S. Geological Survey map(s). Cite scale & quad name: West Point.  
- USDA Natural Resources Conservation Service Soil Survey. Citation: .  
- National wetlands inventory map(s). Cite name: .  
- State/Local wetland inventory map(s): .  

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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.
FEMA/FIRM maps:  
100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

Photographs: ☒ Aerial (Name & Date):  
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:  

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): 10-22-2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Ohio   County/parish/borough: Columbiana   City: West Point
Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W
Universal Transverse Mercator:
Name of nearest waterbody: West Fork Little Beaver Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
Name of watershed or Hydrologic Unit Code (HUC): 5030101
☐ 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): January 15, 2014

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): 
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☐ Relatively permanent waters2 (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: 226 linear feet width (ft) and/or acres.
      Wetlands: acres.
   
   c. Limits (boundaries) of jurisdiction based on: Pick List
      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: .
   Summarize rationale supporting determination: .

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 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: 1 acres
      Average annual rainfall: 38 inches
      Average annual snowfall: 31 inches

   (ii) Physical Characteristics:
      (a) Relationship with TNW:
         ☐ Tributary flows directly into TNW.
         ☑ Tributary flows through 3 tributaries before entering TNW.
         Project waters are 5-10 river miles from TNW.
         Project waters are 1 (or less) river miles from RPW.
         Project waters are 2-5 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 TNW5: UNT K1 flows into UNT K which flows into the West Fork of Little Beaver Creek which flows into Little Beaver Creek.

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.
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: feet
- Average depth: feet
- Average side slopes: Pick List.

Primary tributary substrate composition (check all that apply):

- Silts
- Sands
- Concrete
- Cobble
- 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: Relatively straight

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: Ephemeral flow

Estimate average number of flow events in review area/year: Pick List

Describe flow regime:  

Other information on duration and volume:  

Surface flow is: Confined. Characteristics: Surface flow is confined to the bed and banks of the stream.

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):
  - clear, natural line impressed on the bank
  - changes in the character of soil
  - shelving
  - vegetation matted down, bent, or absent
  - leaf litter disturbed or washed away
  - sediment deposition
  - water staining
  - other (list):
  - the presence of litter and debris
  - destruction of terrestrial vegetation
  - the presence of wrack line
  - sediment sorting
  - scour
  - multiple observed or predicted flow events
  - abrupt change in plant community
- Discontinuous OHWM.7 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
- fine shell or debris deposits (foreshore)
- physical markings/characteristics
- tidal gauges
- other (list):

- survey to available datum;
- physical markings;
- vegetation lines/changes in vegetation types.

(ii) 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:  

---

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.
(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: [ ] acres
  - Wetland type. Explain:
  - Wetland quality. Explain:
  Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:
  Flow is: [Pick List]. Explain:
  Surface flow is: [Pick List]
    Characteristics:
  Subsurface flow: [Pick List]. Explain findings:
    [ ] Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:
  [ ] Directly abutting
  [x] Not directly abutting
    - [ ] Discrete wetland hydrologic connection. Explain:
    - [ ] Ecological connection. Explain:
    - [ ] Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW:
  Project wetlands are [Pick List] river miles from TNW.
  Project waters are [Pick List] aerial (straight) miles from TNW.
  Flow is from: [Pick List].
  Estimate approximate location of wetland as within the [Pick List] 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:
  - [ ] Habitat for:
    - [ ] Federally Listed species. Explain findings:
    - [ ] Fish/spawn areas. Explain findings:
    - [ ] Other environmentally-sensitive species. Explain findings:
    - [ ] Aquatic/wildlife diversity. Explain findings:

3. Characteristics of all wetlands adjacent to the tributary (if any)
   All wetland(s) being considered in the cumulative analysis: [Pick List]
   Approximately ( [ ] ) acres in total are being considered in the cumulative analysis.
For each wetland, specify the following:

<table>
<thead>
<tr>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
</tr>
</thead>
</table>

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

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: Stream K1 has somewhat well defined bed and banks and an OHWM that would undoubtedly convey water to the downstream TNW that is 5-10 miles away. Given the bed and banks, this tributary would have the capacity to transport pollutants and floodwaters to the downstream TNW as well. While some lifecycle support functions would be somewhat limited, due to the streams ephemeral classification, this tributary definitely transports carbon to downstream foodwebs when flowing. Additionally substrate would be transported during high flow as well as heavy rainwater. Therefore this nRPW does have more than a speculative or insubstantial effect on the chemical, biological, or physical integrity of the TNW. It is for this reason that this nRPW can be taken jurisdiction of: .

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: .

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: .
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: linear feet width (ft).
- Other non-wetland waters: acres.
Identify type(s) of waters:

3. Non-RPWs 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: 226 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:

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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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: acres.

7. Impoundments of jurisdictional waters.
- 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):
- which are or could be used by interstate or foreign travelers for recreational or other purposes.

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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.
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: 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: .
- 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: .
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: West Point.
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: . (National Geodectic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): .
  - 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: 

.
SECTION I: BACKGROUND INFORMATION
A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 9-23-2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Ohio  County/parish/borough: Columbiana  City: West Point
Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W
Universal Transverse Mercator:
Name of nearest waterbody: West Fork Little Beaver Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
Name of watershed or Hydrologic Unit Code (HUC): 5030101
☐ 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): January 15, 2014

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.

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. [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 waters² (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: linear feet: width (ft) and/or acres.
      Wetlands: acres.

   c. Limits (boundaries) of jurisdiction based on: Pick List
      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: Isolated aquatic resources on this form include streams M, M1, and M2 for a total of 574 linear feet of isolated stream. These resources are completely isolated and have no nexus to a TNW or interstate or foreign commerce. The

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.
resources are geographically isolated largely due to previous strip mining activities which have occurred on this site. Given the previous strip mining effects on this parcel there is not the possibility of any overland sheetflow to a jurisdictional resource. Again there was no hydrologic connection to a Waters of the U.S. that was noted as a result of the site visit. No ecological connections were noted that were more than speculative. There is no chance for shallow surface flow and the wetlands and receiving water impoundment is not located in a floodplain. These three streams flow into an isolated impoundment just outside the review area with no evident discharge point.
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: .
   Summarize rationale supporting determination: .

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 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: Pick List
   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: .

   Identify flow route to TNW5: .
   Tributary stream order, if known: .

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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.
(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: ______ feet
- Average depth: ______ feet
- Average side slopes: **Pick List.**

Primary tributary substrate composition (check all that apply):
- [ ] Silts
- [ ] Sands
- [ ] Cobble
- [ ] Gravel
- [ ] 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: **Pick List**
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**6 (check all indicators that apply):
  - clear, natural line impressed on the bank
  - changes in the character of soil
  - shelving
  - vegetation matted down, bent, or absent
  - leaf litter disturbed or washed away
  - sediment deposition
  - water staining
  - 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):
- [ ] High Tide Line indicated by: 
- [ ] Mean High Water Mark indicated by:
  - oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - 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: 

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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.
(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: acres
- Wetland type. Explain:
- Wetland quality. Explain:
Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:
Flow is: Pick List. Explain:
Surface flow is: Pick List
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:
  - Separated by bern/barrier. Explain:

(d) Proximity (Relationship) to TNW:
Project wetlands are Pick List river miles from TNW.
Project waters are Pick List aerial (straight) miles from TNW.
Flow is from: Pick List.
Estimate approximate location of wetland as within the Pick List 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:
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings:

3. Characteristics of all wetlands adjacent to the tributary (if any)
All wetland(s) being considered in the cumulative analysis: Pick List
Approximately (       ) acres in total are being considered in the cumulative analysis.
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:

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:
   - 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: linear feet width (ft).
- Other non-wetland waters: acres.
- Identify type(s) of waters:

3. **Non-RPWs** 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 abutting an 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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: acres.

7. **Impoundments of jurisdictional waters.**
   - 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):**
   - 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:

---

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.
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): 574 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: .
☒ 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: .
☐ USGS NHD data.
☐ USGS 8 and 12 digit HUC maps.
☒ U.S. Geological Survey map(s). Cite scale & quad name: West Point.
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: .
☐ National wetlands inventory map(s). Cite name: .
☐ State/Local wetland inventory map(s): .
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): .
☐ 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: .
SECTION I: BACKGROUND INFORMATION
A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 9-23-2014
B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LRP-2013-1798 Rosebud Redbud
C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: Ohio   County/parish/borough: Columbiana   City: West Point
   Center coordinates of site (lat/long in degree decimal format): Lat. 40.6963° N, Long. -80.6938° W
   Universal Transverse Mercator:
   Name of nearest waterbody: West Fork Little Beaver Creek
   Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little Beaver Creek
   Name of watershed or Hydrologic Unit Code (HUC): 5030101
   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): January 15, 2014

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): 
         - TNWs, including territorial seas
         - Wetlands adjacent to TNWs
         - Relatively permanent waters (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: 141 linear feet: width (ft) and/or acres.
      Wetlands: acres.
   c. Limits (boundaries) of jurisdiction based on: Pick List
      Elevation of established OHWM (if known): .
   2. Non-regulated waters/wetlands (check if applicable): 
      Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
      Explain: .

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: .
   Summarize rationale supporting determination: .

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 waterbody 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: 10 acres
   Average annual rainfall: 38 inches
   Average annual snowfall: 31 inches

(ii) Physical Characteristics:
   (a) Relationship with TNW:
      ☐ Tributary flows directly into TNW.
      ☒ Tributary flows through 4 tributaries before entering TNW.
      Project waters are 10-15 river miles from TNW.
      Project waters are Pick List river miles from RPW.
      Project waters are 2-5 aerial (straight) miles from TNW.
      Project waters are Pick List aerial (straight) miles from RPW.
      Project waters cross or serve as state boundaries. Explain: .
      Identify flow route to TNW: UNT N flows into another UNT before flowing into Peters Run which flows into the West Fork Little Beaver Creek prior to flowing into Little Beaver Creek.

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

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

**Tributary** is:  
- [x] Natural

**Tributary** properties with respect to top of bank (estimate):
- Average width: feet
- Average depth: feet
- Average side slopes: **Pick List.**

Primary tributary substrate composition (check all that apply):
- [ ] Silts
- [x] Sands
- [ ] Concrete
- [ ] Cobble
- [ ] Gravel
- [x] Muck
- [ ] Bedrock
- [ ] Vegetation. Type/% cover: .
- [ ] Other. Explain: .

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


**Tributary geometry**: **Relatively straight**

Tributary gradient (approximate average slope): %

(c) Flow:

**Tributary provides for**: **Seasonal flow**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime: .

Other information on duration and volume: .

Surface flow is: **Confined**. Characteristics: Flow is confined to the bed and banks of the stream.

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

- [ ] Dye (or other) test performed: .

Tributary has (check all that apply):
- [x] Bed and banks
- [ ] OHWM\(^6\) (check all indicators that apply):
  - [x] clear, natural line impressed on the bank
  - [ ] changes in the character of soil
  - [ ] shelving
  - [ ] vegetation matted down, bent, or absent
  - [ ] leaf litter disturbed or washed away
  - [ ] sediment deposition
  - [ ] water staining
  - [ ] 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):
- [ ] High Tide Line indicated by:
  - [ ] oil or scum line along shore objects
  - [ ] fine shell or debris deposits (foreshore)
  - [ ] physical markings/characteristics
  - [ ] tidal gauges
  - [ ] other (list):
- [ ] Mean High Water Mark indicated by:
  - [ ] survey to available datum;
  - [ ] physical markings;
  - [ ] 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: .

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\(^6\) 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.
(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: acres
  - Wetland type. Explain:  
  - Wetland quality. Explain:  
- Project wetlands cross or serve as state boundaries. Explain:  

(b) **General Flow Relationship with Non-TNW:**
- Flow is: **Pick List**. Explain:  
- Surface flow is: **Pick List**. 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:  
  - Separated by berm/barrier. Explain:  

(d) **Proximity (Relationship) to TNW:**
- Project wetlands are **Pick List** river miles from TNW.
- Project waters are **Pick List** aerial (straight) miles from TNW. 
- Flow is from: **Pick List**. 
- Estimate approximate location of wetland as within the **Pick List** 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:  
- Habitat for:
  - Federally Listed species. Explain findings:  
  - Fish/spawn areas. Explain findings:  
  - Other environmentally-sensitive species. Explain findings:  
  - Aquatic/wildlife diversity. Explain findings:  

3. **Characteristics of all wetlands adjacent to the tributary (if any)**
- All wetland(s) being considered in the cumulative analysis: **Pick List**
- Approximately (       ) 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)

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

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: .

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: .
   - 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: This significant nexus determination is a matter of policy and not required as a matter of law because the UNT was found to be a RPW without perennial flow however qualifies as having seasonal flow. Given the connectivity, the tributary does have the capacity to carry pollutants or flood waters to the TNW. The surrounding wetlands work in conjunction with the RPW to reduce the amount of floodwaters and/or pollutants that would reach the TNW. The tributary in question
definitely provides habitat and lifecycle support functions for organisms that are dependent upon it. Nutrients and organic carbon would undoubtedly be transferred to downstream food webs again given the connectivity. Given the volume, duration, and frequency of flow this UNT obviously has more then a speculative or insubstantial effect on the chemical, physical, and biological integrity of Little Beaver Creek.

Provide estimates for jurisdictional waters in the review area (check all that apply):
- Tributary waters: 141 linear feet width (ft).
- Other non-wetland waters: acres.

Identify type(s) of waters:

3. Non-RPWs\(^8\) 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:

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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

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: acres.

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):\(^{10}\)

\(^8\)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.
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: 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: .
- 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: .
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: West Point.
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): .
- or Other (Name & Date): .
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
B. ADDITIONAL COMMENTS TO SUPPORT JD:  .