



## MEMORANDUM FOR NWK-2007-1175

**Subject:** Clarification of Closest Traditional Navigable Water for Jurisdictional Determination (JD) NWK-2007-1175

The U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers are asserting that Wilson Lake is the closest traditional navigable water (TNW) for jurisdictional determination (JD) NWK-2007-1175. This assertion is based on existing Regulations and guidelines, including 33 C.F.R. Parts 328.3 and 329 and Appendix D. The agencies are requesting that the Kansas City District reevaluate the significant nexus determination for the unnamed tributary of Wilson Lake, based on Wilson Lake's status as a TNW, consistent with the legal memorandum *Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in Rapanos v. United States & Carabell v. United States*. EPA and the Corps concur that there is the need for additional photographic and aerial documentation of the reach in question to support an analysis of whether or not the unnamed tributary in question has a significant nexus with Wilson Lake. The close proximity of the unnamed tributary to Wilson Lake suggests a strong likelihood that there may be a significant nexus. The agencies also request that the District submit a revised JD form incorporating the requested new documentation and reflecting the conclusion that Wilson Lake is a TNW.

Brian Frazer, Chief  
Wetlands & Aquatic Resources Regulatory Branch  
U.S. Environmental Protection Agency

Date: Sept. 4, 2007

Russell L. Kaiser, Senior Program Manager  
Regulatory Community of Practice  
U.S. Army Corps of Engineers

Date: Sept 4, 2007