

# 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): 6 JANUARY 2016

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: ROCK ISLAND, CEMVR-OD-P-2015-1310: Sycamore Investments, LLC

### C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Illinois County/parish/borough: Sycamore City: DeKalb

Center coordinates of site (lat/long in degree decimal format): Lat. 41.984233° **Pick List**, Long. -88.711867° **Pick List**.

Universal Transverse Mercator: 16

Name of nearest waterbody: East Branch South Branch Kishwaukee River

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Rock River

Name of watershed or Hydrologic Unit Code (HUC): 07090006

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): 12-3-2015

## 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):<sup>1</sup>

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters<sup>2</sup> (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: 3,420' linear feet: 2-6 width (ft) and/or acres.

Wetlands: 2.65 (Wetland 1), 0.07 (Wetland 2), 0.37 (Wetland 3), & 0.39 (Farmed Wetland 1) acres.

##### c. Limits (boundaries) of jurisdiction based on: **Not Applicable**.

Elevation of established OHWM (if known): .

#### 2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **There is no surface connection to Wetland 2 (0.07 acres of emergent wetland), Wetland 3 (0.37 acres of scrub-shrub wetland) or Farmed Wetland 1 (0.39 acres of farmed wetland) to any other waters of the U.S. located within the**

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

<sup>2</sup> 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).

<sup>3</sup> Supporting documentation is presented in Section III.F.

project boundaries and no connection to the tributary to the East Branch South Branch Kishwaukee River. The wetlands total 0.83 acres of emergent, scrub-shrub, and farmed wetland. There is no outlet to or from Wetland 2, Wetland 3, or Farmed Wetland 1, they are not abutting any waterway or Waters of the U.S., and the water has nowhere to flow to. There is no direct or overland flow connection to a Waters of the U.S. of these areas based on the 1939 or the 1973 USGS topographical maps, the 1999 or 2013 Google Earth Aerial Photo, or the site visit on December 3, 2015. The 1939 topographical map is the oldest topographical map located, with the 1973 being the most recent. The 1999 Google Earth Aerial Photo represents the site prior to the tributary to the East Branch South Branch Kishwaukee River manipulation, moved east, and turned into a concrete lined low water crossing and the 2013 Google Earth Aerial Photo represents the most recent. Wetland 3 and Farmed Wetland 1 would not be connected to or adjacent to the tributary to the East Branch South Branch Kishwaukee River from the 1939 USGS topographical map, the 1999 aerial photo on Google Earth, or the 2013 aerial photo from Google Earth. The Wetland 3 and Farmed Wetland 1 are not adjacent to the concrete lined channel, are not in the location of the 1939 & 1973 USGS topographical map WUS, or located where the WUS was in 1999. Nor would Wetland 3 and Farmed Wetland 1 be considered adjacent to but not directly abutting RPW's or wetlands adjacent to non-RPW's that flow directly or into TNW's. There is a constructed upland berm between the concrete lined low water crossing and Wetland 3. However there is a cut-out in the berm between the low water crossing and Wetland 3, yet there remains no connection between these two areas even with the cut-out section. The concrete lined channel would not connect to Wetland 3 "but for" the constructed berm. Wetland 2 is not connected and does not have overland flow to the tributary to the East Branch South Branch Kishwaukee River from the 1939 or 1973 USGS topographical map, or the 1999 or 2013 aerial photo on Google Earth. The site visit conducted on December 3, 2015 occurred after a period of rain totalling 0.78 inches in the 3 days prior to the site visit, and there was no overland direct connection to a Waters of the U.S. This site has no nexus to interstate commerce, no fish or shellfish could be taken from it, no fish can be harvested or caught and sold across state lines, and no boat could be floated on it.

**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<sup>4</sup> 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: 1,260 square miles

Drainage area: 0.52 square miles

Average annual rainfall: 37 (precipitation = rainfall plus snowfall) inches

Average annual snowfall: inches

**(ii) Physical Characteristics:**

**(a) Relationship with TNW:**

Tributary flows directly into TNW.

Tributary flows through 4 tributaries before entering TNW.

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

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

Project waters are 25-30 aerial (straight) miles from TNW.

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

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

Identify flow route to TNW<sup>5</sup>: Tributary to East Branch South Branch Kishwaukee River --> East Branch South Branch Kishwaukee River --> South Branch Kishwaukee River --> Kishwaukee River --> Rock River.

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

<sup>5</sup> 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: The southern most portion for a length of 1,680' is

unaltered with perennial flow. The remaining 1,740' of the RPW has been altered significantly. It has been relocated 315' to the east and turned into a concrete lined low water crossing with ephemeral flow.

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

Average width: 6 feet  
Average depth: 6"-1' 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: The tributary very stable in the unaltered southern most portion and is relatively straight. The northern portion of the tributary has been significantly altered. Water would collect into a concrete lined low water crossing from adjacent uplands and their stormwater outlets during periods of rain.

Presence of run/riffle/pool complexes. Explain: None..

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): Half of the project area has 0-2% with the other half having 2-5% slopes  
%

(c) Flow:

Tributary provides for: **Seasonal flow**

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

Describe flow regime: Southern half of tributary is perennial. Northern half of tributary is ephemeral.

Other information on duration and volume: .

Surface flow is: **Discrete and confined**. Characteristics: .

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  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.<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  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:**

<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.

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).  
Explain: .  
Identify specific pollutants, if known: .

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

- Riparian corridor. Characteristics (type, average width): .
- Wetland fringe. Characteristics: Wetland 1 is located along both sides of the unaltered tributary in the southern most section of the project area .
- 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: Wetland1 is 2.65 acres

Wetland type. Explain:Emergent wetland. Wetland 1 ranged from 10-60' across and consisted primarily of Reed Canary Grass (Phalaris arundinacea), narrow-leaf cattail (Typha angustifolia), and Devil's-Pitchfork or Common Beggars Tick (Bidens frondosa)..

Wetland quality. Explain: Average. Wetland 1 is dominated by the exotic and invasive Reed canary grass and the non-native narrow-leaf cattail, but it was also dominated the native Devil's-Pitchfork. The Coefficient of Conservatism is 2.53 and the Native Floristic Quality Index is 9.81. This is a low to moderate quality plant community.

Project wetlands cross or serve as state boundaries. Explain: No..

(b) General Flow Relationship with Non-TNW:

Flow is: **Perennial flow**. Explain: The waterway is perennial in the southern most portion, however the manipulated northern portion is ephemeral. The wetland delineation provided by ENCAP, Inc. refers to it as an intermittent drainageway, we do not concur with this statement.

Surface flow is: **Discrete and confined**

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 **30 (or more)** river miles from TNW.

Project waters are **10-15** aerial (straight) miles from TNW.

Flow is from: **Wetland to/from 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: 100% cover by FACW species of Reed canary grass, narrow-leaf cattail, and Devil's Pitchfork.
- Habitat for:
  - Federally Listed species. Explain findings:Indiana bat and Northern long-eared bat.
  - Fish/spawn areas. Explain findings: .
  - Other environmentally-sensitive species. Explain findings:Migratory waterfowl and neotropical migrants..
  - 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 ( 2.65 ) acres in total are being considered in the cumulative analysis.



For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
Wetland 1 - Y	2.65		

Summarize overall biological, chemical and physical functions being performed: flood storage, sediment trap, pollutant filter, and aquatic and terrestrial wildlife habitat .

### 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: Blue line on USGS topographical map and flow on December 3, 2015.  
 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: **3,420** linear feet width (ft).
- Other non-wetland waters: acres.

Identify type(s) of waters: .

**3. Non-RPWs<sup>8</sup> 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: **Wetland 1 (2.65 acres of emergent wetland) is directly abutting the tributary to East Branch South Branch Kishwaukee River.**
- 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: **2.65** 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.<sup>9</sup>**

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

- 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.

<sup>8</sup>See Footnote # 3.

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

<sup>10</sup>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.

- 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: **The project area is an 80 acre parcel of land called Peace Road Site, Sycamore, and is located North of DeKalb Avenue, East of Anjali Court, West of S. Peace Road, and South of Sarah Drive in Sycamore, Illinois. The project area consists of 8 residential homes off of Anjali Court, additional residential homes near the SW section of the project area off of Brock and Elizabeth Circles, while the remainder is surrounded by agricultural fields planted with corn (Zea mays). The topography of the site is relatively flat. Half of the project area has 0-2% slopes, and the other half has 2-5% slopes. Wetland 1 ranged from 10-60' across and consisted primarily of Reed Canary Grass (Phalaris arundinacea), narrow-leaf cattail (Typha angustifolia), and Devil's-Pitchfork or Common Beggars Tick (Bidens frondosa). Wetland 1 ranged from 10-60' across and consisted primarily of Reed Canary Grass (Phalaris arundinacea), narrow-leaf cattail (Typha angustifolia), and Devil's-Pitchfork or Common Beggars Tick (Bidens frondosa). There is no surface connection of Wetland 2 (0.07 acres of emergent wetland), Wetland 3 (0.37 acres of scrub-shrub wetland) or Farmed Wetland 1 (0.39 acres of farmed wetland) to any other waters of the U.S. located within the project boundaries and no connection to the tributary to the East Branch South Branch Kishwaukee River. The wetlands total 0.83 acres of emergent, scrub-shrub, and forested wetland. There is no outlet to or from Wetland 2, Wetland 3, or Farmed Wetland 1. These areas are not abutting any waterway or Waters of the U.S., and the water has nowhere to flow to. There is no direct or overland flow connection to a Waters of the U.S. based on the 1939 or 1973 USGS topographical maps, the 1999 or 2013 Google Earth aerial photo, or the December 3, 2016 site visit. Wetland 3 and Farmed Wetland 1 would not be connected to the tributary to the East Branch South Branch Kishwaukee River from the 1939 USGS topographical map, the 1999 aerial photo on Google Earth, or the 2013 aerial photo from Google Earth where the tributary was moved east, a concrete lined low water crossing was created, and a man-made berm was constructed. The Wetland 3 and Farmed Wetland 1 are not adjacent to the concrete lined channel, or where the 1939 & 1973 USGS topographical map WUS was located, or where the 1999 WUS was located. Nor would Wetland 3 and Farmed Wetland 1 be considered adjacent to but not directly abutting RPW's or wetlands adjacent to non-RPW's that flow directly or into TNW's. There is a constructed upland berm between the concrete lined channel and Wetland 3, however there is a cut-out in the berm, yet there remains no connection between Wetland 3 and the concrete lined channel even with the cut-out. The concrete lined channel would not connect to Wetland 3 "but for" the constructed berm. Wetland 2 is not connected or have overland flow to the tributary to the East Branch South Branch Kishwaukee River from the 1939 USGS topographical map, the 1999 aerial photo on Google Earth, or the 2013 aerial photo from Google Earth. The site visits conducted on December 3, 2015 was after a period of rain totalling 0.78 inches in the 3 days prior to the site visit, and there was no overland direct connection to a Waters of the U.S. This site has no nexus to interstate commerce, no fish or shellfish could be taken from it, no fish can be harvested or caught and sold across state lines, and no boat could be floated on it**
- Other: (explain, if not covered above): .

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

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: 0.83 [(Wetland 2 = 0.07 acres) + (Wetland 3 = 0.37 acres) + (Farmed Wetland 1 = 0.39 acres)] 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: 0.83 [(Wetland 2 = 0.07 acres) + (Wetland 3 = 0.37 acres) + (Farmed Wetland 1 = 0.39 acres)] 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: IL-Sycamore 1:24,0000 .
- USDA Natural Resources Conservation Service Soil Survey. Citation:DeKalb County Soil Survey .
- National wetlands inventory map(s). Cite name:NWI.
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is:          (National Geodectic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date):Google Earth .
  - or  Other (Name & Date):Wetland Delineation conducted October 9, 2015 and the Site visit on December 3, 2015.
- 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:**

Isolated Summary: Wetland 2 (0.07 acres of emergent wetland), Wetland 3 (0.37 acres of scrub-shrub wetland) and Farmed Wetland 1 (0.39 acres of farmed wetland) are isolated wetlands with no connection to any other waters of the U.S. and no connection to the tributary to the East Branch South Branch Kishwaukee River. These isolated wetlands total 0.83 acres of emergent, scrub-shrub, and farmed wetland. There is no outlet to or from Wetland 2, Wetland 3, or Farmed Wetland 1, they are not abutting any waterway or Waters of the U.S., and the water has nowhere to flow to. There is no direct or overland flow connection to a Waters of the U.S. from these wetlands. These wetlands have no nexus to interstate commerce, no fish or shellfish could be taken from it, no fish can be harvested or caught and sold across state lines, and no boat could be floated on it.

Jurisdictional Summary: Wetland 1 (2.65 acres of emergent wetland) is a jurisdictional wetland that is directly abutting a waters of the U.S., a tributary to the East Branch South Branch Kishwaukee River. This tributary to the East Branch South Branch Kishwaukee River is 3,420' in length, with the southern most (upstream) portion of the tributary is an unaltered channel measuring 1,680'. The remaining 1,740' of the tributary has been altered significantly. It has been relocated 315' to the east and turned into a concrete lined low water crossing with ephemeral flow. The relocation of this tributary into a concrete lined low flow channel with ephemeral flow is still a jurisdictional water of the US. This concrete channel serves to connect the upstream tributary to the East Branch South Branch Kishwaukee River, and it's adjacent wetland (2.65 acre Wetland 1) to the East Branch South Branch Kishwaukee River.