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): 5/19/2017

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: MVR; Iowa Development Authority (IEDA), ISG, 2016-1188

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Iowa County/parish/borough: Appanoose City: Centerville

Center coordinates of site (lat/long in degree decimal format): Lat. 40.7136 ° **N**, Long. –92.8439 ° **W**.

Universal Transverse Mercator:

Name of nearest water body: Unnamed Tributary to Hickory Creek

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

Name of watershed or Hydrologic Unit Code (HUC): 10280201

☒ 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: 3/14/2017

☐ Field Determination. Date(s):

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 and are not** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*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:
      Wetlands: .38 Acres

   c. **Limits (boundaries) of jurisdiction** based on: **1987 Delineation Manual**
      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: **WL-C (.06 acres) is located in a roadside ditch along Dewey Road that was built in uplands to drain uplands defined in section III.C.**

[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: 2400 **square miles**
Drainage area: **1236 acres**
Average annual rainfall: 35-36 inches
Average annual snowfall: 30 inches

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

Project waters are **120-130** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **90-100** 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: .

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

Identify flow route to TNW[5]: Waters leave the project site traveling North via an unknown tributary to the Little Walnut Creek, Intersect with the main fork of Walnut Creek, after 10+ miles the waterway connects with the Racoon River, it terminates into the Des Moines River which is a 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:
Average depth:
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: **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: channelized and visible.

Subsurface flow: **Pick List**. Explain findings: Agricultural fields abutting the grassed waterway lead to suspicions of tiling throughout the field.
☐ 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 ☐ 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:

[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
[6]A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
[7]Ibid.

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:
- ☐ 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: .38 (cumulative) acres
Wetland type. Explain: Paulustrine Emergent Wetlands
Wetland quality. Explain: Poor, Wetlands dominated by invasive species and located in grassed waterway.
Project wetlands cross or serve as state boundaries. Explain: N/A.

(b) General Flow Relationship with Non-TNW:
Flow is: **Ephemeral flow**. Explain: High precipitation events.

Surface flow is**: Ephemeral**

Characteristics: Surface drainage features extending from Wetlands A and B can be seen on Lidar and aerial photo's extending from the identified wetlands into an erosional feature in a neighboring field which terminates into an unnamed tributary to Hickory Creek. Wetland D drains to the south via a non-RPW under Dewey Road through a culvert and the non-RPW terminates into the same Unnamed Tributary to Hickory Creek as Wetlands A and B. The unnamed tributary to Hickory Creek becomes Hickory Creek and connects with the Chariton River and eventually connects with the Missouri River, a TNW.

Subsurface flow: **No**. Explain findings: Overland flow can be seen by using Lidar and aerial photos.
- ☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:
- ☐ Directly abutting
- ☒ Not directly abutting
  - ☒ Discrete wetland hydrologic connection.
  - ☐ Ecological connection. Explain: .
  - ☐ Separated by berm/barrier/man-made structures. Explain .

(d) Proximity (Relationship) to TNW
Project wetlands are **30 (or more)** river miles from TNW.
Project waters are **30 (or more)** aerial (straight) miles from TNW.
Flow is from: **Wetland to navigable waters.**
Estimate approximate location of wetland as within the **500-year or greater** 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: The surrounding watershed is primarily heavily farmed.
Identify specific pollutants, if known: None identified however this area should be expected to exhibit high levels of nitrates, pesticides and herbicides due to the agricultural activity surrounding it..

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

- ☐ Riparian buffer. Characteristics (type, average width): .
- ☒ Vegetation type/percent cover. Explain: Nearly 100% cover by Reed Canary Grass, a FACW species.
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: None observed.
  - ☐ Fish/spawn areas. Explain findings: No standing water observed.
  - ☐ Other environmentally-sensitive species. Explain findings: No environmentally sensitive species observed.
  - ☐ Aquatic/wildlife diversity. Explain findings: Aquatic wildlife not observed.

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

All wetland(s) being considered in the cumulative analysis: WL-A (.02 acres), WL-B (.24 acres), WL-D (.12 acres)

List and describe (Emergent, scrub/shrub, forested) the wetlands: Emergent.

Approximately (.44) 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)
WL-A	N	.02 acres	WL-D	N	.12 acres
WL-B	N	.24 acres			

Summarize overall biological, chemical and physical functions being performed: The wetlands provide some storm water detention, sediment detainment, and pollution control. If the wetland areas weren't subjected to annual farming practices, small invertebrates would be expected to prosper in such a wetland however none were specifically observed during the field visit. Sediment detainment is expected to be occurring because adjacent farming activities result in loosened soil. The functions/benefits in regards to pollution are the filtration of local herbicides and pesticides that are generally spread onto the agricultural field, as well as the removal of any pollutants that might be attached to the silt particles prior to their entering a direct connection to the downslope RPW.

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:

a. ISG has identified three wetlands, named as Wetlands A, B and D in the provided delineation that total .38 acres in area. Surface drainage features extending from Wetlands A and B can be seen on Lidar and aerial photo's extending from the identified wetlands into an erosional feature in a neighboring field which terminates into an unnamed tributary to Hickory Creek (Attach 1). Wetland D drains to the south via a non-RPW under Dewey Road through a culvert and the non-RPW terminates into the same Unnamed Tributary to Hickory Creek as Wetlands A and B (Attach 2). The unnamed tributary to Hickory Creek becomes Hickory Creek and connects with the Chariton River and eventually connects with the Missouri River, a TNW (Attach 3).

b. The relevant reach for this wetland complex extends from the wetlands through erosional features in neighboring field which connects the non-navigable, permanent waterway identified as an Unnamed Tributary to Hickory Creek. This tributary empties into Hickory Creek and eventually flows into the Missouri River. We have determined that the point where the non-RPW that Wetlands A and B are adjacent to, connects with the RPW (Unnamed Tributary to Hickory Creek) defines the extent of our review area due to the guidance on page 40 of the USACE Jurisdictional Determination Form Instructional Guidebook as well as the figure shown on page 41 with very similar conditions. In researching historical aerial photography the Corps has found that Wetlands A, B and D have had a direct connection to an Unnamed Tributary to Hickory Creek for at least 50 years on aerial photography (Attach 4). The unnamed Tributary to Hickory Creek is identified on the USGS topographic maps with a three dot stream identifying it as an intermittent waterway (Attach 5). After review of historical aerials and LIDAR we have determined that this is a relatively permanent waterway.

c. We have determined that the evaluated wetlands A, B and D, as identified by ISG, (and any other wetlands similarly situated in the watershed) possess limited flood storage capacity due to relatively small size and drainage area (approximately .38 acres cumulatively, ~60 acres drainage area). However, they do have a significant nexus due to the large amounts of agricultural activity in the watershed of Hickory Creek which has increased the frequency of flooding in the area due to a lack of riparian corridors in the watershed.

d. The physical hydrological connection between the wetlands and the downstream TNW are dependent on the amount of precipitation that accumulates on the drainage area, as overland flow is the primary form of hydrologic connection. We (Corps) have calculated that the drainage area for the wetlands is about 60 acres using the USGS topographic map and the reported conditions in the delineation. The overland hydrologic connection between the wetlands and eventually the downslope RPW identified as Unnamed Tributary to Hickory Creek is discrete. The wetlands are connected to the perennial stream through overland flow such as drainage ditches and upland swales. They would only be expected to exhibit a direct connection during high precipitation events.

e. Contaminants (silt, nitrogen, phosphorus) entering the evaluated wetlands due to the agricultural activities and from overland flow in the drainage area are filtered out by the wetlands prior to reaching the perennial stream (Unnamed Tributary to Hickory Creek). This stream flows into Hickory Creek which eventually disperses into the Chariton River and then the Missouri River which is a TNW. A general function of any such wetland is the filtration of contaminants which are present due to the neighboring activities. It can be reasonably assumed that the contaminants attached to the sediment particles released by plowing and other soil moving activities are being filtered as well. Other materials that are being filtered out by these wetlands are the oils and heavy metals associated with heavy agricultural machinery. These wetlands provide a significant benefit to the filtration of nitrogen that is applied on any farming properties within its direct drainage area as fertilizer. This wetland complex provides a much needed filter to prevent contaminants and sediments from entering the watershed. Due to the proximity of agricultural activities, the absence of the identified wetlands would provide a direct pathway for pollutants such as herbicides and pesticides, as well as, oils and other chemicals to flow downstream into the TNW.

f. In reference to the same reasons just cited, organic carbon derived from detritus decomposition, and nutrients within the evaluated wetlands are likely to reach the down slope RPW, and in turn the down slope TNW. These organic carbons are used by downstream organisms as a source of food which increases the overall food chain in the Missouri River. Due to the hydrologic connection, this provides a benefit to the biological food webs within the RPW and TNW. It has been identified by the IA DNR that the Missouri River is considered a 303d impaired water. This identifies that it has a biological impairment and must be monitored due to high TMDL values. State and Federal endangered mussels and Pallid Sturgeon habitat are known to occur downstream of where the RPW discharges into the TNW. They are specifically vulnerable to an increase of sediment in the water and the chemicals that they ingest while filtering the water they live in. The wetlands provide a biological significant nexus to the TNW by filtering out these contaminants that would otherwise enter the TNW and adversely affect the biological integrity of downstream TNW's.

g. Based on the above, we have determined that the wetlands identified as Wetlands A, B and D (totaling .38 acres) described in ISG's wetland delineation report possess more than a speculative capacity to provide a substantial or measurable effect on the biological, chemical and physical integrity of the proximate TNW (Missouri River).

h. The wetland identified as WL-C is located within an upland roadside ditch that was built in uplands, to drain uplands and is therefore non-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:

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters:
☐ 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 jurisidictional. 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: **.38** acres (Wetlands A, B and D).

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: See (3.) (C.) above.
☒ Other: (explain, if not covered above): WL-C is located within a roadside ditch that traverse uplands.

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):.
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands:

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):
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☒ Wetlands: .06 acres (WL-C)

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: Materials submitted with application by ISG in a wetland delineation report.
☒ Data sheets prepared/submitted by or on behalf of the applicant.
☒ 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:1:24,000; Centerville East, IA (Attach 5).
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Centerville, Iowa; (Figure 3, delineation report).
☒ National wetlands inventory map(s). Cite name: Centerville, Iowa; (Figure 2, delineation report).
☐ State/Local wetland inventory map(s): .
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): 1960 (Attach 4) and 2014 (Figure 5, delineation report).
or ☒ Other (Name & Date): 10 onsite photo (Appendix C, delineation report).
☐ Previous determination(s). File no. and date of response letter: .
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .

☒ Other information (please specify): Attachment 1: Hydrologic path of Wetlands A & B; Attachment 2: Hydrologic path of Wetland D; Attachment 3: Connectivity to TNW; Attachment 6: Aerial Drainage View of Wetland D; Attachment 7: Aerial Drainage View of Wetlands A & B.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Appanoose Industrial Corporation (Bill Buss)	File Number: 2016-1188	Date: May 19, 2017

Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
X	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an

approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

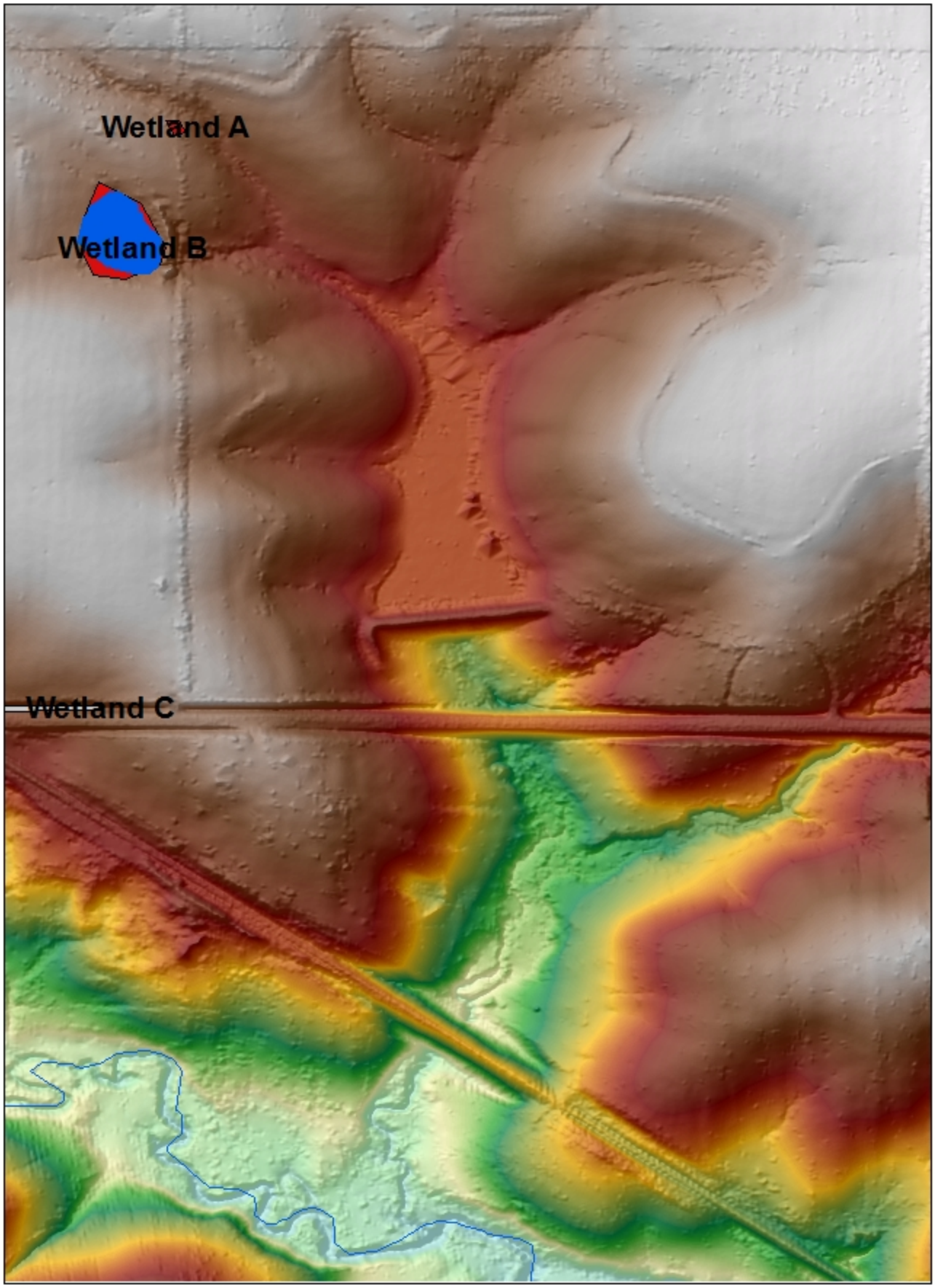
If you have questions regarding this decision and/or the appeal process you may contact:
Abigail Steele
US Army Corps of Engineers District, Rock Island
ATTN: Regulatory Branch
Clock Tower Building
Post Office Box 2004
Rock Island, Illinois 61204-2004

If you only have questions regarding the appeal process you may also contact:
Administrative Appeals Review Officer
Mississippi Valley Division
U.S. Army Corps of Engineers
1400 Walnut Street
Vicksburg, MS 39181-0080
601-634-5820

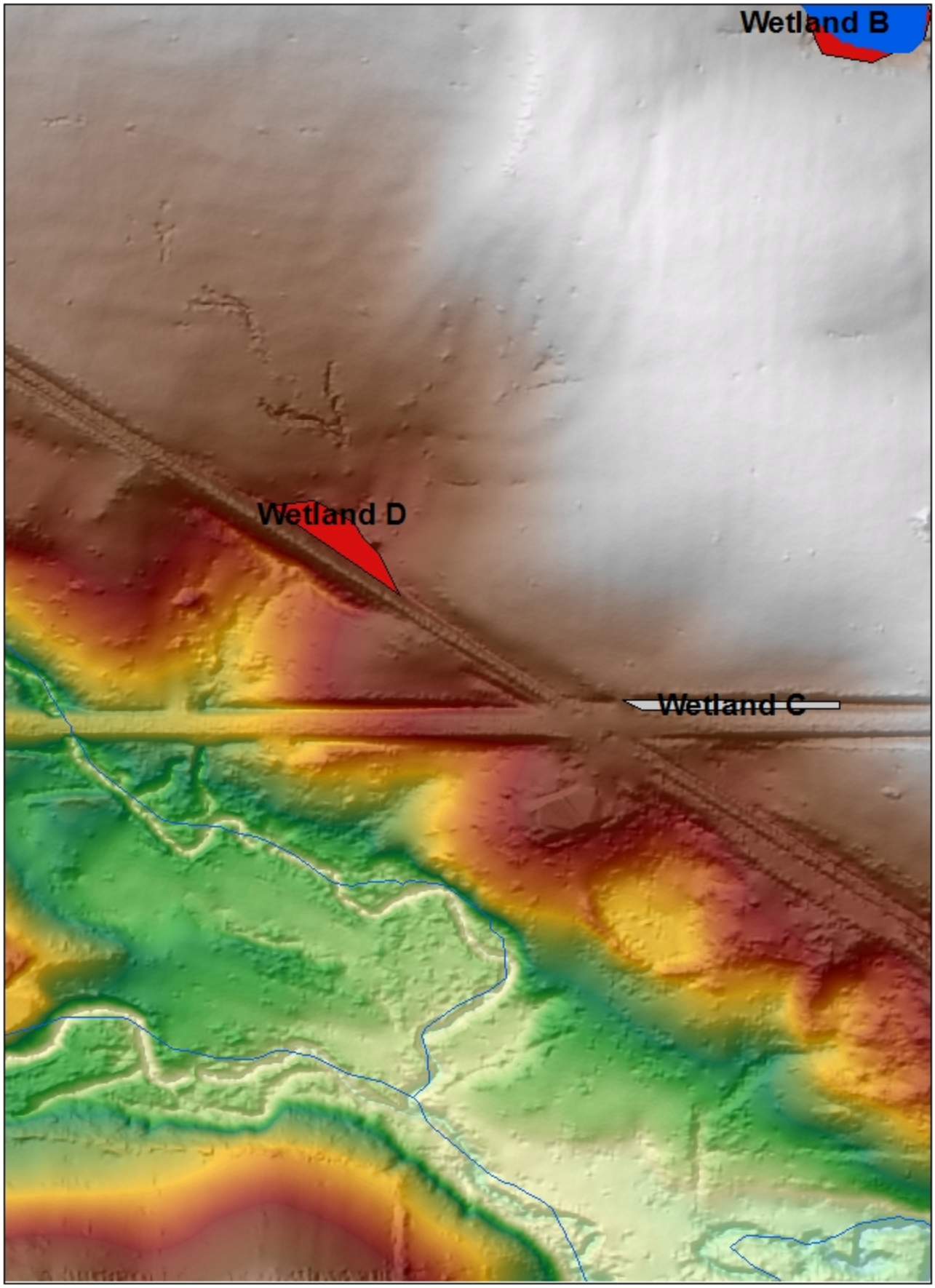
RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

	Date:	Telephone number:
_____ Signature of appellant or agent.		

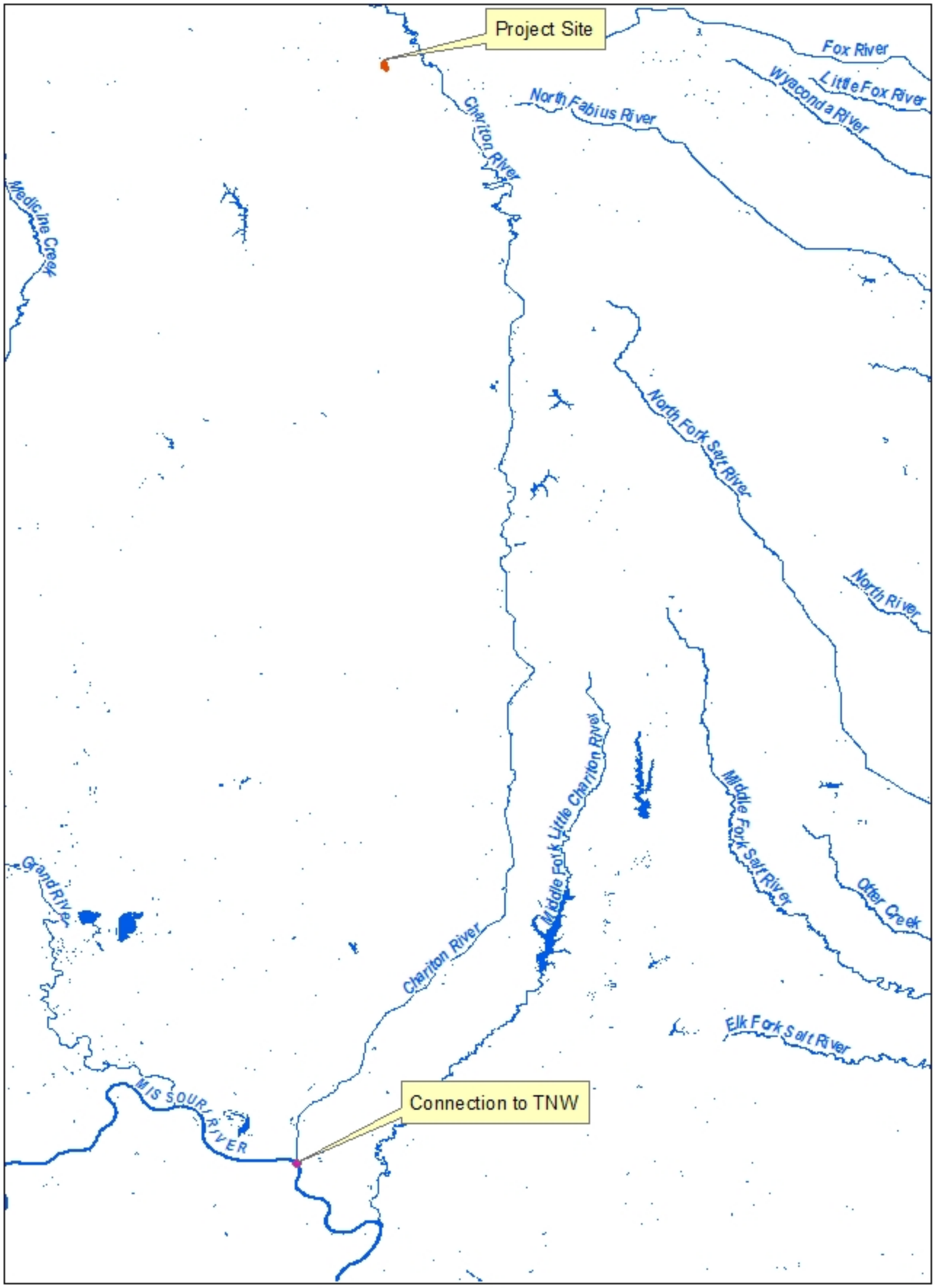
2016-1188 Attachment 1-
Hydrologic Path of Wetlands A & B



2016-1188 Attachment 2-
Hydrologic Path of Wetland D



2016-1188 Attachment 3- Connectivity to TNW

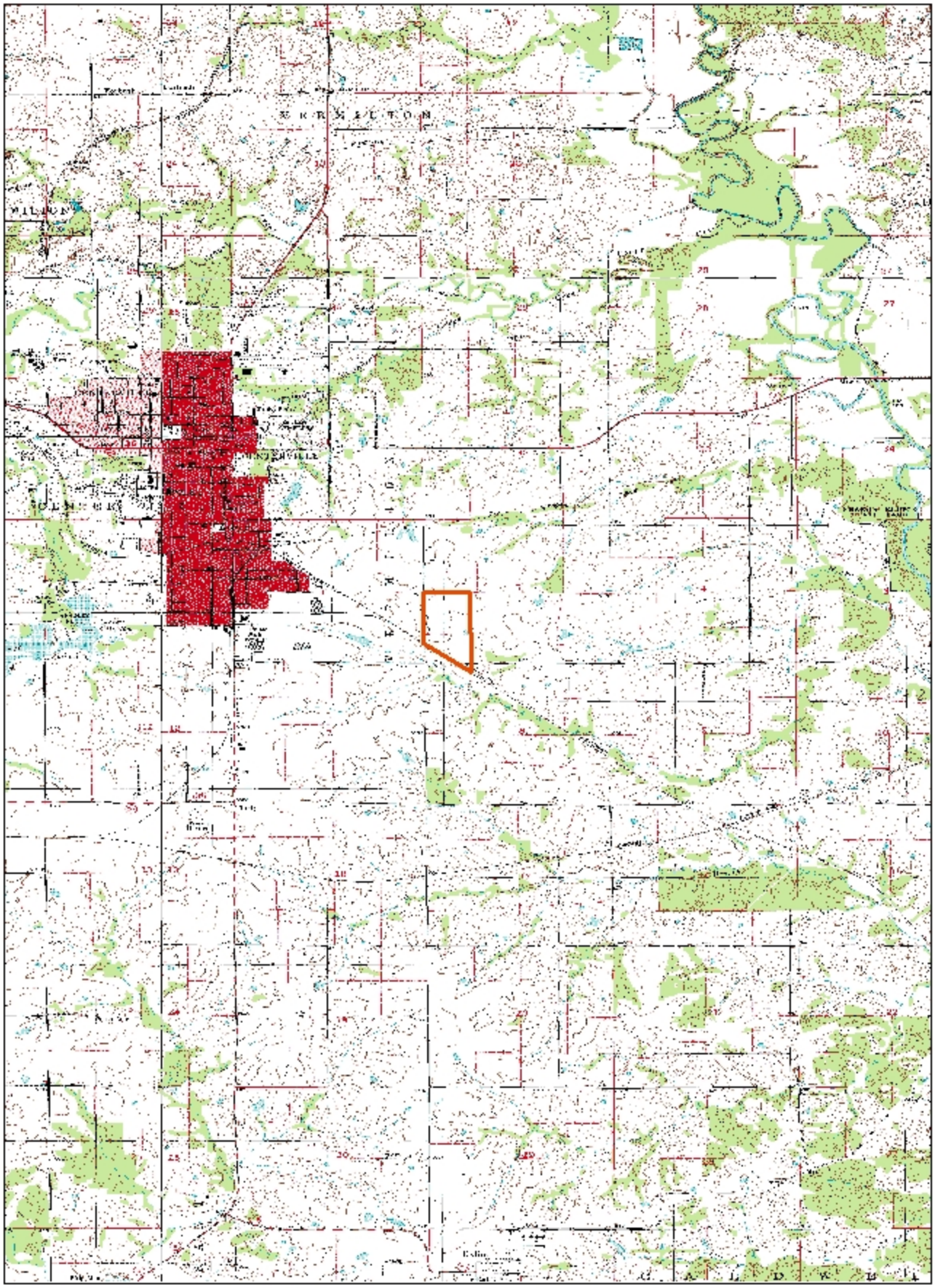


2016-1188 Attachment 4-
Historical Aerial 1960

0 0.025 0.05 0.1 0.15 0.2
Miles

N

2016-1188 Attachment 5- USGS Topo



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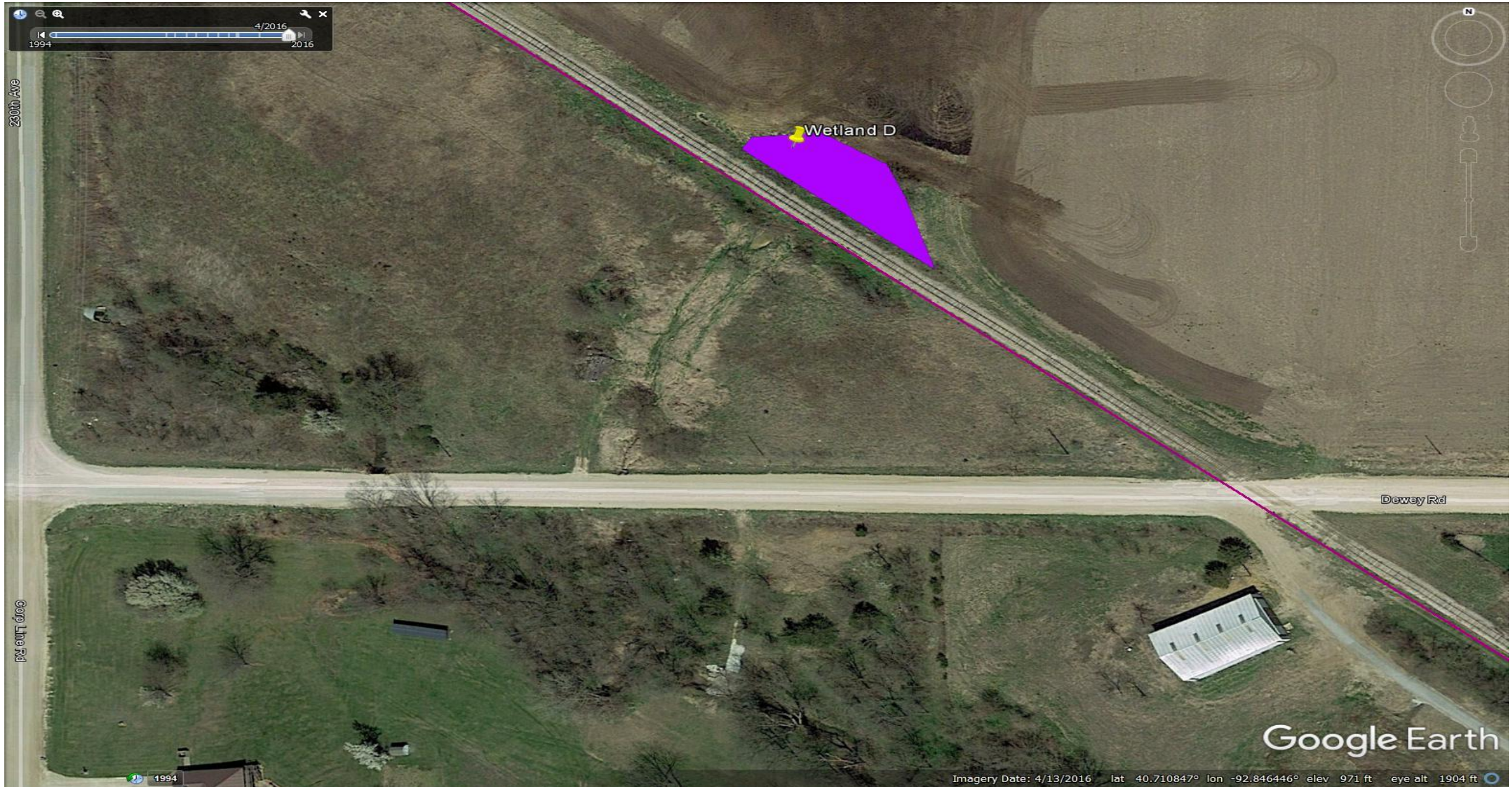
Miles

N

2016-1188 Attachment 6- Aerial View Wetland C



2016-1188 Attachment 7- Aerial View Wetlands A & B