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.

A.	REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 7/2011
B.	DISTRICT OFFICE, FILE NAME, AND NUMBER: MVR; IDALS, 2017-202
C.	PROJECT LOCATION AND BACKGROUND INFORMATION: State: Iowa County/parish/borough: Cedar City: West Branch Center coordinates of site (lat/long in degree decimal format): Lat. 41.672° N, Long. –91.363° W. Universal Transverse Mercator: Name of nearest water body: Unnamed Tributary to the West Branch of the Wapsinonoc Creek Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Iowa River Name of watershed or Hydrologic Unit Code (HUC): 07080206 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: 4/11/2017 ☐ Field Determination. Date(s):
SEC A.	CTION II: SUMMARY OF FINDINGS RHA SECTION 10 DETERMINATION OF JURISDICTION.
The revi	re Are no "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the ew 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:
В.	CWA SECTION 404 DETERMINATION OF JURISDICTION.
The	re 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 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: 2,639 linear feet intermittent stream Wetlands: .01 Acres
	c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual Elevation of established OHWM (if known):
	 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:

SECTION I: BACKGROUND INFORMATION

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: 1098 square miles
Drainage area: 121 acres

Average annual rainfall: 32-34 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 30 (or more) river miles from TNW. Project waters are 1 (or less) river miles from RPW.

Project waters are 20-25 aerial (straight) miles from TNW.

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

Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW⁵: Waters leave the project site traveling East via the unknown tributary to the West Branch Wapsinonoc Creek, then Intersects with the main fork of the West Branch Wapsinonoc Creek after roughly 1 mile, after

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.

mouth as it enters the Mississippi River. Tributary stream order, if known:1st Order. General Tributary Characteristics (check all that apply): ⊠ Natural Tributary is: Artificial (man-made). Explain:. Manipulated (man-altered). Explain: **Tributary** properties with respect to top of bank (estimate): Average width: 2-3 feet Average depth: <1 foot Average side slopes: 2:1. 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: Condition not described in the delineation. The pictures however show fairly stable banks towards the bottom of the watershed and erosion in the upper reaches. Presence of run/riffle/pool complexes. Explain:. Tributary geometry: Meandering Tributary gradient (approximate average slope): Flow: Tributary provides for: Seasonal flow Estimate average number of flow events in review area/year: 20 (or greater) Describe flow regime: 3 or more months per year. Other information on duration and volume: Surface flow is: Discrete and confined. Characteristics: channelized and visible. Subsurface flow: Unknown. Explain findings: A grassed waterway empties into the site at the start of all three streams identified, this leads to suspicions of tiling throughout the neighboring fields. 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 \boxtimes destruction of terrestrial vegetation shelving the presence of wrack line vegetation matted down, bent, or absent sediment sorting leaf litter disturbed or washed away \boxtimes 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):

roughly 8 miles the west branch connects with the Wapsinonoc Creek, it continues South until it connects with the Cedar River roughly 3 miles later, the Cedar River connects with the Iowa River 3 miles later which becomes a TNW near the

(iii) Chemical Characteristics:

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.

Third

the fields such as silt, pesticides, herbicides and nitrogen should be present. Identify specific pollutants, if known: farm field runoff, fertilizer/pesticides (iv) Biological Characteristics. Channel supports (check all that apply): Riparian corridor. Characteristics (type, average width): Wetland fringe. Characteristics: wetlands have been identified along stream corridor. Habitat for: Fish, invertebrates, amphibians and birds Federally Listed species. Explain findings: Fish/spawn areas. Explain findings: Other environmentally-sensitive species. Explain findings: Aquatic/wildlife diversity. Explain findings: While fish and other species were not present when the site investigation was completed it should be expected that due to the streams intermittent nature and depth macro-invertebrates and other small vertebrate species should be expected to reside in the stream and its corridor. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW **Physical Characteristics:** (a) General Wetland Characteristics: Properties: Wetland size: .01 (cumulative) acres Wetland type. Explain: Palustrine Emergent Wetland Wetland quality. Explain: Poor, Wetlands have a large amount of invasive species such as reed canary grass and hackberry. Project wetlands cross or serve as state boundaries. Explain: N/A. (b) General Flow Relationship with Non-TNW: Flow is: Intermittent flow. Explain: Wetlands are directly abutting the non-RPW's (Unnamed tributaries to Muchakinock Creek) and would be expected to exhibit a direct connection to the downstream TNW. Surface flow is: Intermittent Characteristics: Surface drainage is expected as the wetland is directly abutting the intermittent stream identified in the delineation. Subsurface flow: No. Explain findings: 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 20-25 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: Water clarity was not described specifically in the delineation. The surrounding watershed is primarily heavily farmed with several tile outlets at the mouth of each branch of stream. 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 primarily FAC, FACW and Obligate vegetation. 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.

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.). Explain: Most of the water entering the project area comes from tile outlets in nearby fields. High levels of runoff from

Aquatic/wildlife diversity. Explain findings: Aquatic wildlife not observed.
Characteristics of all wetlands adjacent to the tributary (if any)
All wetland(s) being considered in the cumulative analysis: WL 1 (.01 acres).
List and describe (Emergent, scrub/shrub, forested) the wetlands: Emergent. Approximately .01 acres of Emergent wetland 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 1	Y	.01 acres		

Summarize overall biological, chemical and physical functions being performed: The wetlands provide some storm water detention, sediment detainment, and pollution control. Small invertebrates would be expected to prosper in such a wetland however none were specifically observed in the delineation report. Sediment detainment is certainly occurring, due to the proximity of the wetlands to the streams providing an active riparian buffer. The functions/benefits in regards to pollution are the filtration of local herbicides and pesticides that are generally spread onto the neighboring agricultural fields, 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 downstream TNW.

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:

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:

	TERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL IAT 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: 2,639 linear feet 3 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 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: Wetland boundary ends at the Ordinary High Water Mark of the identified Intermittent Stream.
	Provide acreage estimates for jurisdictional wetlands in the review area: .01 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: 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:

D.

7. Impoundments of jurisdictional waters.9

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

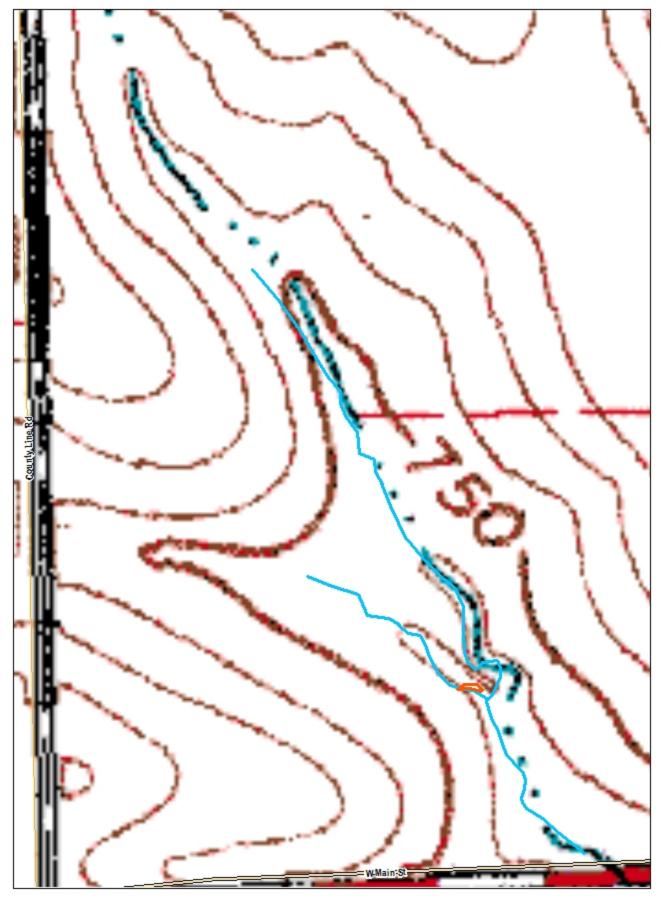
DEGRADATION OR DEST: SUCH WATERS (CHECK A	OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, RUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY ALL THAT APPLY): 10
Provide estimates for jurisdicti Tributary waters: lin Other non-wetland waters: Identify type(s) of wate Wetlands: acres. F. NON-JURISDICTIONAL W If potential wetlands were Wetland Delineation Man Review area included isol Prior to the Jan 2001 "Migratory Bird Rule Waters do not meet the "Sabove. Other: (explain, if not cov	I by interstate or foreign travelers for recreational or other purposes. I have or could be taken and sold in interstate or foreign commerce. I for industrial purposes by industries in interstate commerce.
Tributary waters: lin Other non-wetland waters: Identify type(s) of wate Wetlands: acres. F. NON-JURISDICTIONAL W If potential wetlands were Wetland Delineation Man Review area included isol Prior to the Jan 2001 "Migratory Bird Rule Waters do not meet the "S above. Other: (explain, if not cov	umarize rationale supporting determination:
☐ If potential wetlands were Wetland Delineation Man ☐ Review area included isol ☐ Prior to the Jan 2001 "Migratory Bird Rule ☐ Waters do not meet the "Sabove. ☐ Other: (explain, if not cov	
	Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: See (3.) (C.)
	rivers, streams):.
Provide acreage estimates for r a finding is required for jurisdi Non-wetland waters (i.e., Lakes/ponds: acres. Other non-wetland waters Wetlands: acres	rivers, streams):
SECTION IV: DATA SOURCES	<u>5</u> .
and requested, appropriately re ☑ Maps, plans, plots or plat Consultants in a wetland deline ☑ Data sheets prepared/subr ☑ Office concurs with da	submitted by or on behalf of the applicant/consultant: Materials submitted with application by MMS eation report. mitted by or on behalf of the applicant/consultant. ata sheets/delineation report. r with data sheets/delineation report. he Corps: study:

 $^{^{10}}$ 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 $\it Memorandum~Regarding~CWA~Act~Jurisdiction~Following~Rapanos.$

\boxtimes	U.S. Geological Survey map(s). Cite scale & quad name:1:24,000; West Branch, IA (Attachement 1).
\boxtimes	USDA Natural Resources Conservation Service Soil Survey. Citation: Figure 3, delineation report.
\boxtimes	National wetlands inventory map(s). Cite name: Figure 4, delineation report
	State/Local wetland inventory map(s): .
	FEMA/FIRM maps: .
	100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
\boxtimes	Photographs: Aerial (Name & Date): 1990, 2002, 2005, 2006, 2007, 2008, 2009, 2010 and 2014.
	or ☐ Other (Name & Date): .
	Previous determination(s). File no. and date of response letter: .
	Applicable/supporting case law: .
	Applicable/supporting scientific literature: .
\boxtimes	Other information (please specify): Attachment 1: TOPO, Attachment 2: Lidar Project Area, Attachment 3: Aerial of Project Area
Atta	achment 4: hydrologic pathway to TNW. Attachment 5: Wetland and Stream locations (Figure 9. Delineation).

B. ADDITIONAL COMMENTS TO SUPPORT JD:

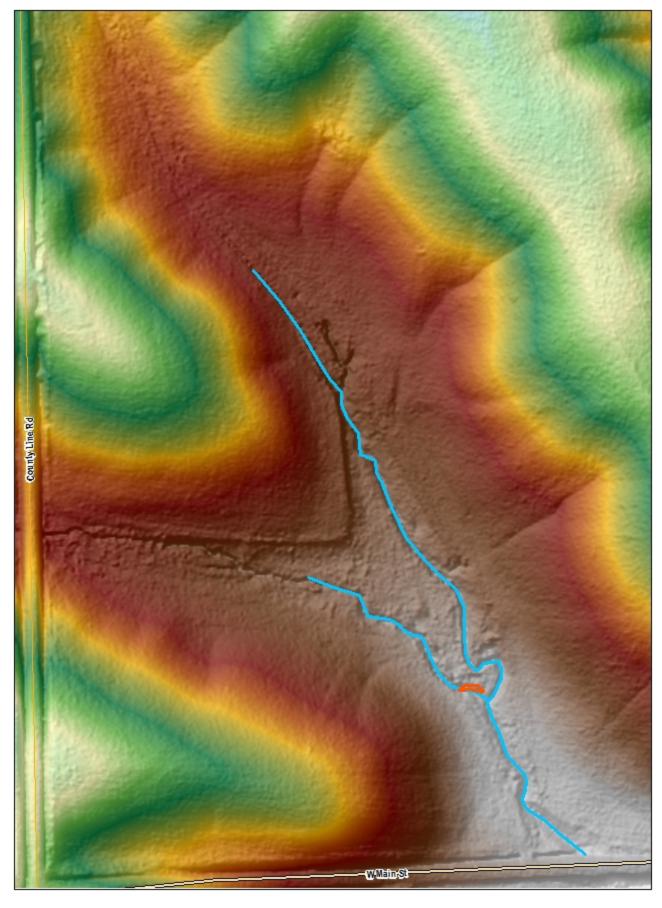
2017-202 TOPO





0 0.02 0.04 0.08 Miles

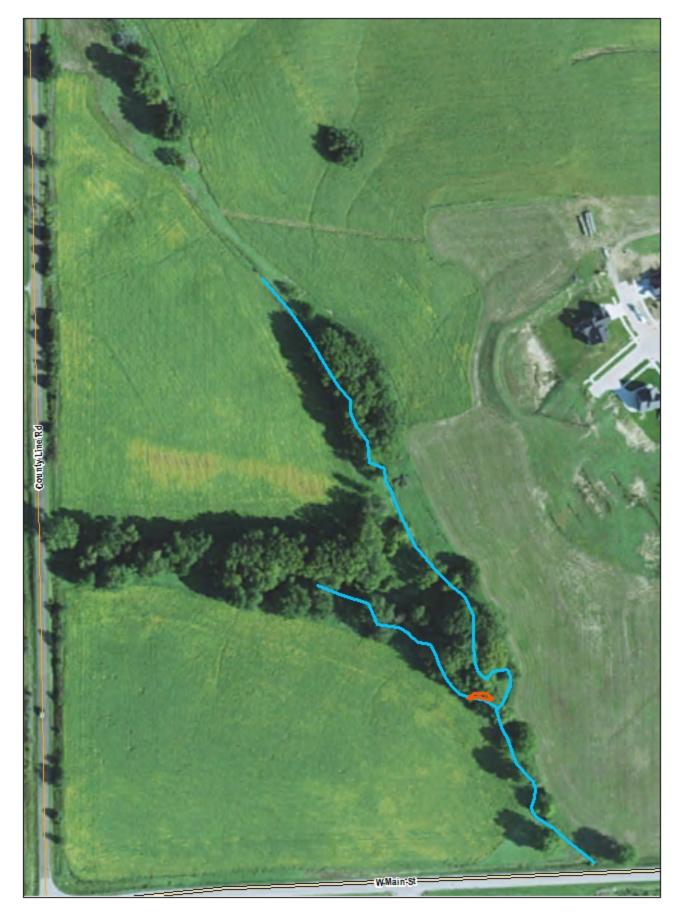
2017-202 Lidar





0 0.02 0.04 0.08 Miles

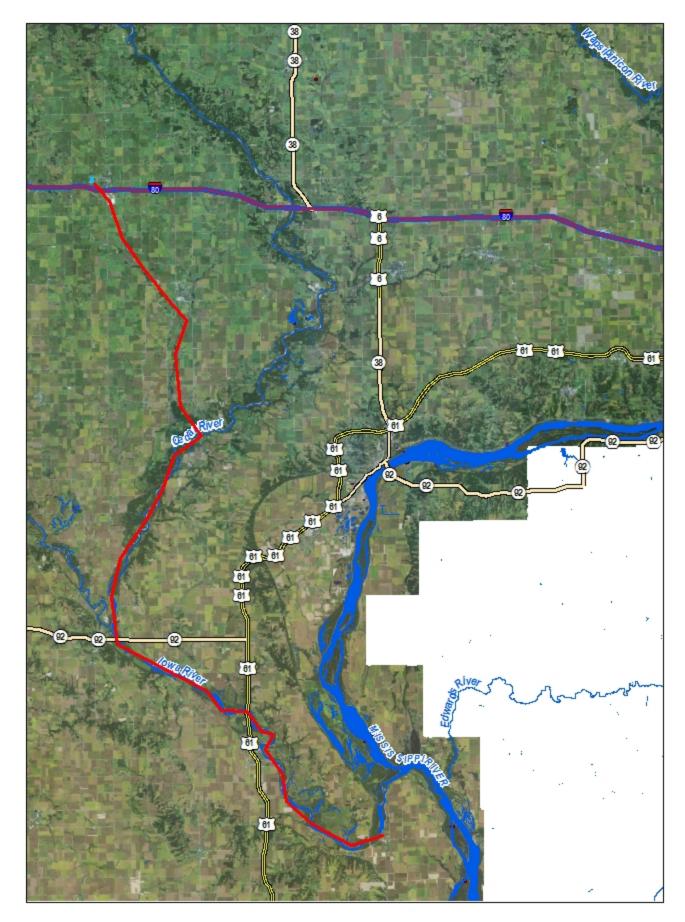
2017-202 Aerial





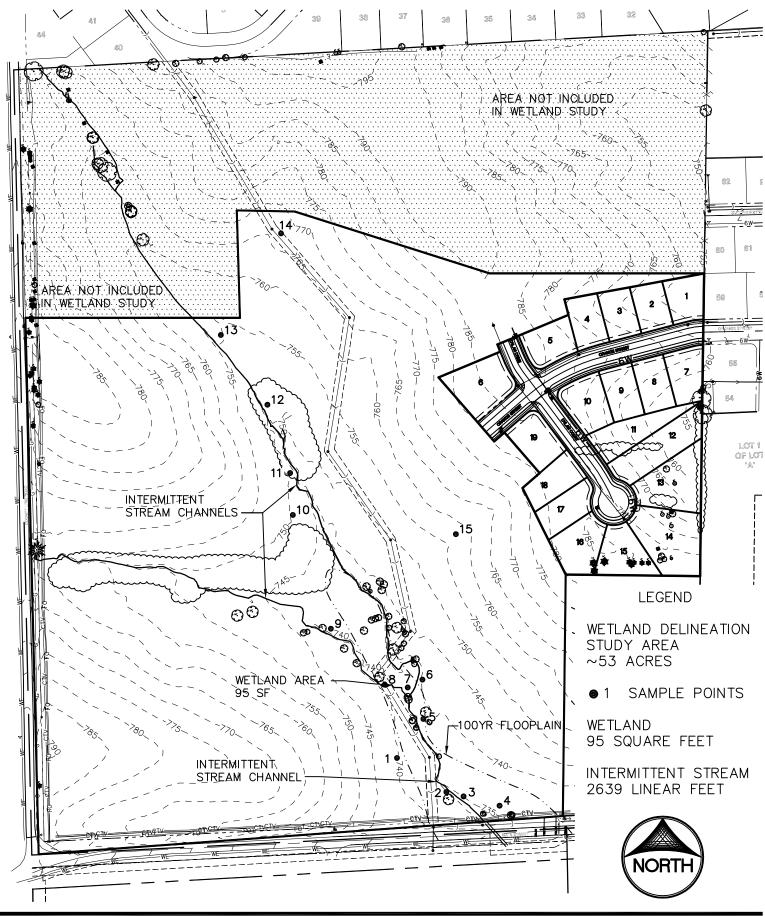
0 0.02 0.04 0.08 Miles

2017-202 Hydrologic Flow





0 3 6 12 Miles



Designed by: TJD	Scale:
TJD	1"= 250'
Drawn by:	Date:
TJD	07/21/11
Checked by:	Project No:
TÍD	10 0045 004

FIGURE 9: WETLAND DELINEATION MAP

THE MEADOWS SUBDIVISION KLM INVESTMENTS INC WEST BRANCH CEDAR COUNTY, IOWA MMS CONSULTANTS, INC.

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Date Revision