



U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

**I. ADMINISTRATIVE INFORMATION**

Completion Date of Approved Jurisdictional Determination (AJD): 21-JAN-2021

ORM Number: MVR-2020-00554-KLB

Associated JDs: CEMVR-OD-P-2009-1571, 2011-1294, 2016-469, & 2018-393

Review Area Location<sup>1</sup>:

State/Territory: IA City: Des Moines County/Parish/Borough: Polk County

Center Coordinates of Review Area: Latitude 41.592877 Longitude -93.621563

**II. FINDINGS**

**A. Summary:** Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- ☒ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- ☒ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

**B. Rivers and Harbors Act of 1899 Section 10 (§ 10)<sup>2</sup>**

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
WUS-1, 4, & 5 - Des Moines River	8900 feet	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	The Des Moines River is Section 10 water in the Rock Island District.

**C. Clean Water Act Section 404**

**Territorial Seas and Traditional Navigable Waters ((a)(1) waters)<sup>3</sup>**

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
WUS-1, 4, & 5 - Des Moines River	8900 feet	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	The Des Moines River also meets the criteria for a TNW under Section 404.

**Tributaries ((a)(2) waters):**

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
WUS-2 Prospect Park	330 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Unnamed tributary to the Des Moines River, water present during delineation on 5/6/2020. Stagnant flow visible during site visit, experiences backflow when water levels on the Des Moines are high. Defined bed

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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			& bank, OHWM, deposition, presence of litter/debris
WUS-3 Prospect Park	550 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Unnamed tributary to the Des Moines River, water present during delineation on 5/6/2020intermittently lined with riprap. Defined bed & bank, OHWM, presence of litter/debris.
WUS-6 Raccoon River	600 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Raccoon River is a named perennial waterway with a defined bed & bank, OHWM, deposition, and scour.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A	N/A	N/A	N/A

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
S-08 Prospect Park	0.32 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature	Floodplain forested wetland of the Des Moines River separated by a natural berm.
S-10 Prospect Park	0.26 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature	Floodplain forested wetland of the Des Moines River separated by a natural berm.
S-12/S-14 Prospect Park	2.44 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Directly abuts and is a continuation of S-20 wetland that directly abuts WUS-3, an (a)(2) tributary
S-20 Prospect Park	0.96 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Directly abutting wetland WUS-3, an (a)(2) tributary. Replanted forested wetland for temporary impacts from permit 2018-393 that is currently in the active monitoring phase of 3 years of required monitoring.
S-26 Birdland Park	0.03 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Directly abuts the Des Moines River, an (a)(1) waterway.
S-29 Scott Ave	2.75 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature	Floodplain forested wetland of the Des Moines River separated by a natural berm from past river sediment deposition. Also permit 2018-393 issued a PJD for an emergent wetland that directly abuts the Des Moines River and connects to Wetland S-30.
S-30 Scott Ave	0.41 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature	Floodplain forested wetland of the Des Moines River separated by a natural berm from past river sediment deposition.
S-37 Harriet St	1.77 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature	Floodplain forested wetland of the Des Moines river separated only by one natural berm from past river sediment deposition.
S-39/S-41 Harriet St	2.65 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature	Floodplain forested wetland of the Des Moines river separated only by one natural berm from past river sediment deposition. Also permit 2011-1294 identified a wetland that directly abuts the Des Moines River and continues to wetland S-39/S-41.
S-44/S-46 Harriet St	0.73 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature	Floodplain forested wetland of the Des Moines river separated only by one natural berm from past river sediment deposition

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
S-04 Prospect Park	0.12 acres	(b)(1) Non-adjacent wetland	Floodplain forested wetland separated by a man-made barrier/road. No culvert is visible therefore it does not meet the definition of an (a)(4) waters. See attached images.
S-06 Prospect Park	0.01 acres	(b)(1) Non-adjacent wetland	Wetland in a roadside drainage ditch of Prospect Road. Not connected by a culvert that has flow in a typical year therefore it does not meet the definition of an (a)(4) waters.
S-24 Prospect Park	0.07 acres	(b)(1) Non-adjacent wetland	Wetland in a roadside drainage ditch of Prospect Park. Not connected by a culvert that has flow in a typical year therefore it does not meet the definition of an (a)(4) waters.
S-49 Harriet St	0.11 acres	(b)(1) Non-adjacent wetland	Depressional wetland near a road. Not connected to an (a)(1) – (a)(3) water.
S-51 Harriet St	0.09 acres	(b)(1) Non-adjacent wetland	Depressional wetland near a road. Not connected to an (a)(1) – (a)(3) water.
S-54 Harriet St	0.1 acres	(b)(1) Non-adjacent wetland	Depressional wetland. Not connected to an (a)(1) – (a)(3) water.
S-55 Harriet St	0.1 acres	(b)(1) Non-adjacent wetland	Depressional wetland. Not connected to an (a)(1) – (a)(3) water.

**III. SUPPORTING INFORMATION**

**A. Select/enter all resources** that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☒ Information submitted by, or on behalf of, the applicant/consultant: *Wetland Delineation Report dated July 2020 by HDR.*

This information is sufficient for purposes of this AJD.

Rationale: *Delineation conducted during the growing season on May 6-7, 2020.*

Data sheets prepared by the Corps: *N/A*

☒ Photographs: *(aerial and other) Site photos provided in delineation report. See also images in attachment.*

Corps Site visit(s) conducted on: *Date(s).*

☒ Previous Jurisdictional Determinations (AJDs or PJDs): *2009-1571, 2011-1294, 2016-469, & 2018-393.*

Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*

USDA NRCS Soil Survey:.

USFWS NWI maps:

USGS topographic maps:

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**Other data sources used to aid in this determination:**

<b>Data Source (select)</b>	<b>Name and/or date and other relevant information</b>
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	LiDAR and Google Earth Street View

**B. Typical year assessment(s):** N/A.

**C. Additional comments to support AJD:** See attachments.

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

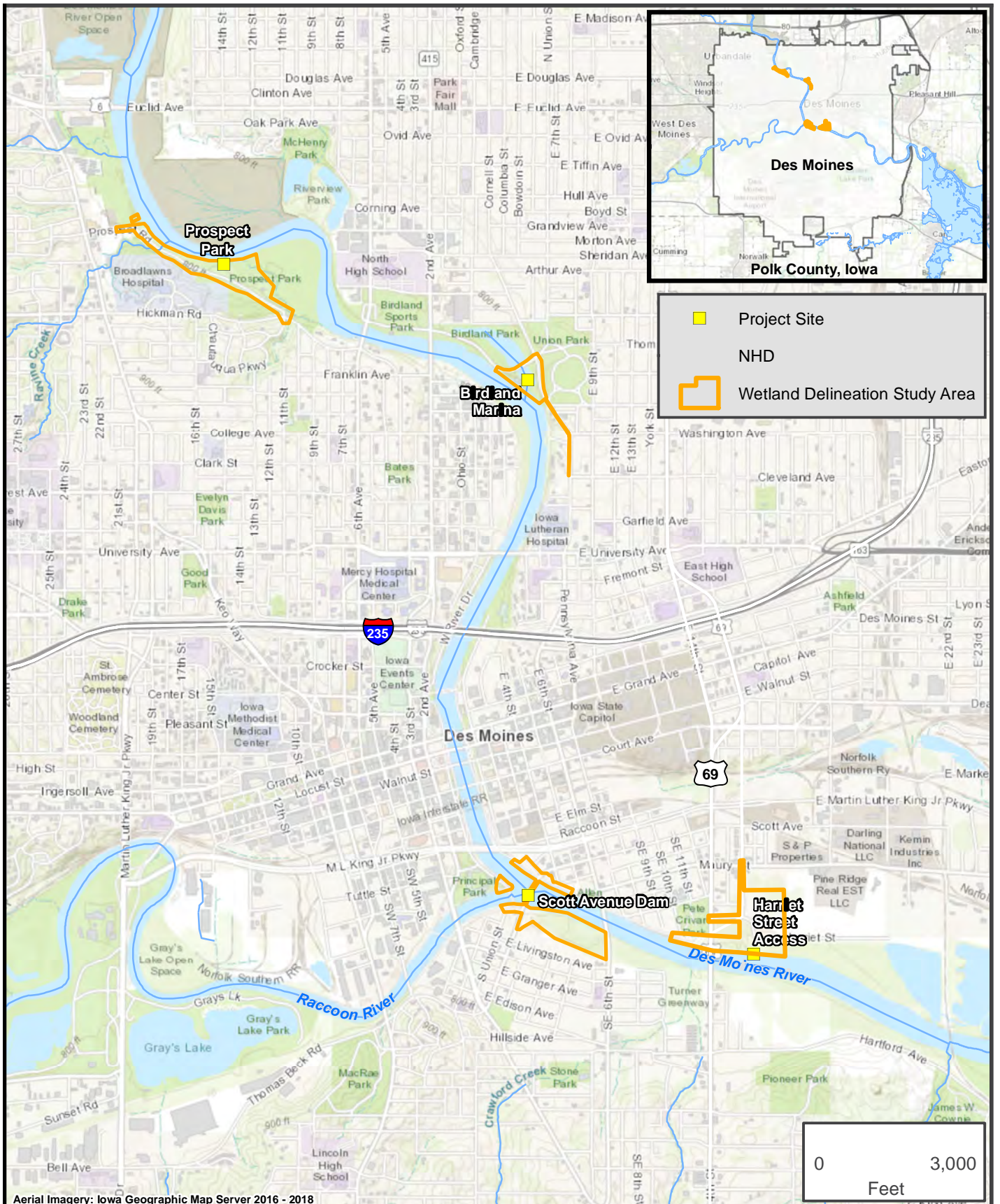
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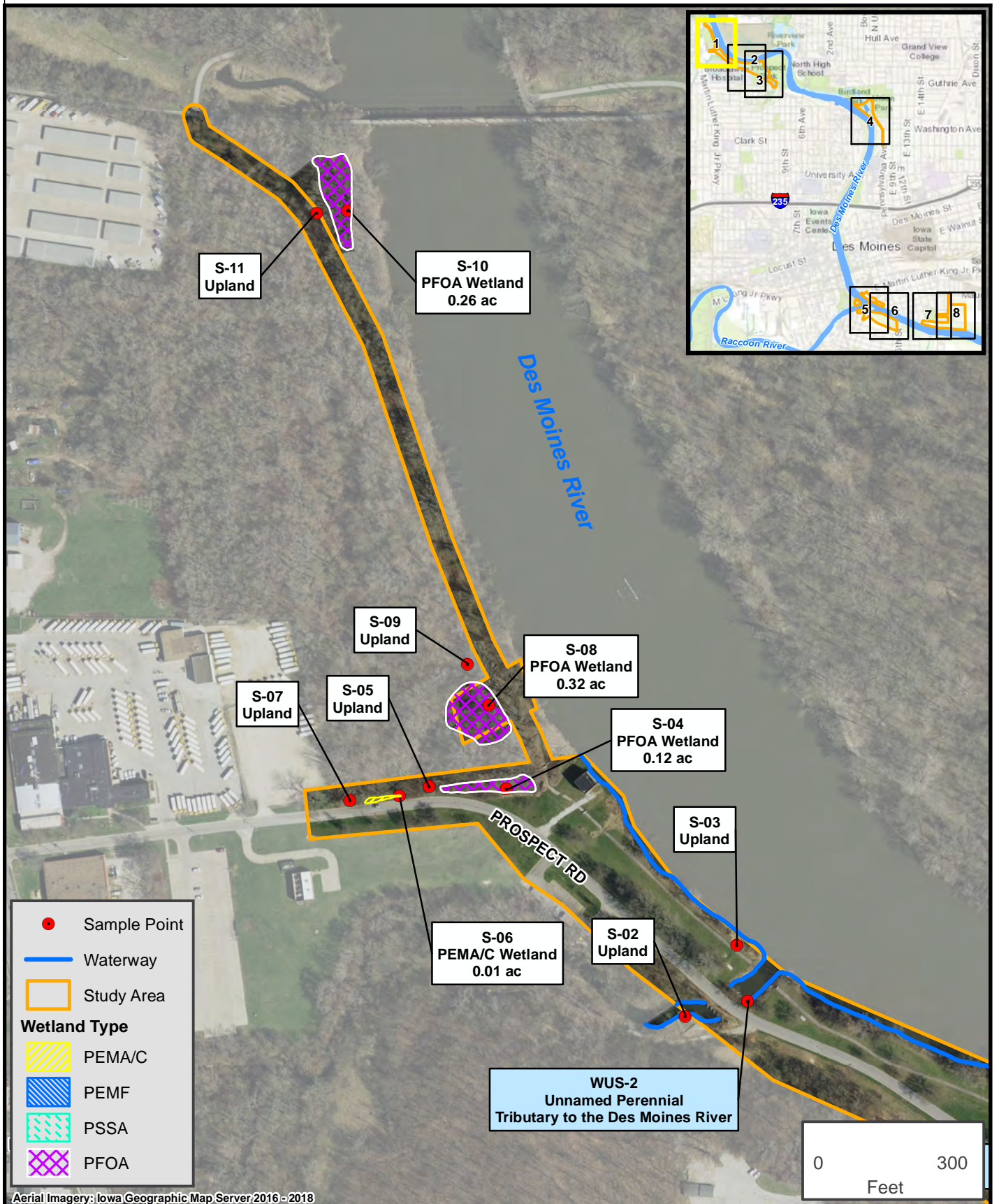
## Location Map

Des Moines River Activation and Possible Dam Modification  
City of Des Moines, Polk County, Iowa



Figure 1





Aerial Imagery: Iowa Geographic Map Server, 2016 - 2018



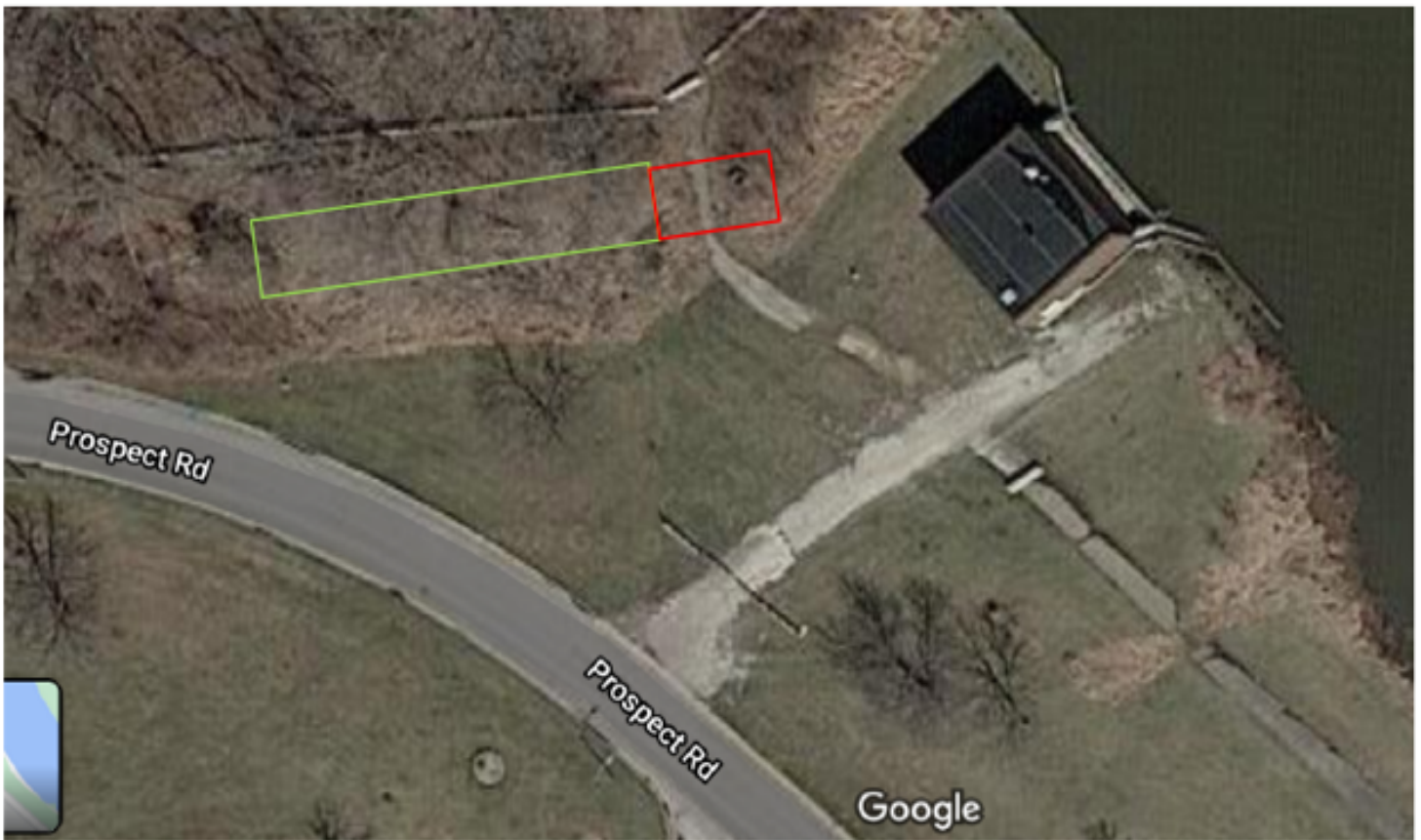
## Wetlands and Water Resources

Des Moines River Activation and Possible Dam Modification  
City of Des Moines, Polk County, Iowa



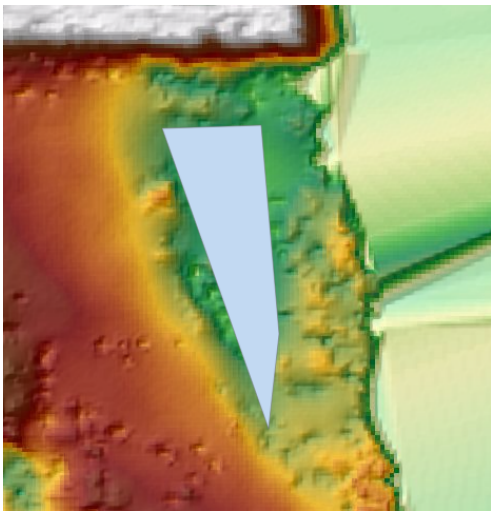
FIGURE 2, SHEET 1 OF 8



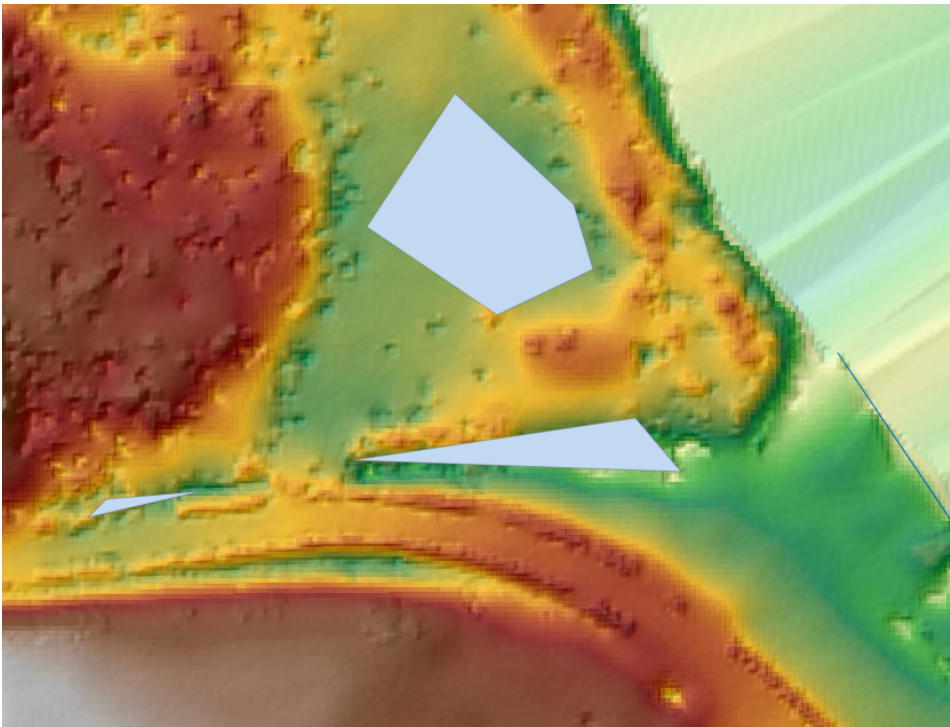


A culvert is not visible in the wetland delineation report, any recent or historical aerial images, nor via Google Earth, Street View. Therefore, Wetland S-04 (0.12 acre PFO) is considered a non-adjacent wetland. The green polygon represents approximate location of S-04 and the red polygon is the location where the road separates jurisdiction. See also LiDAR image at top right of following page that shows the road separation.

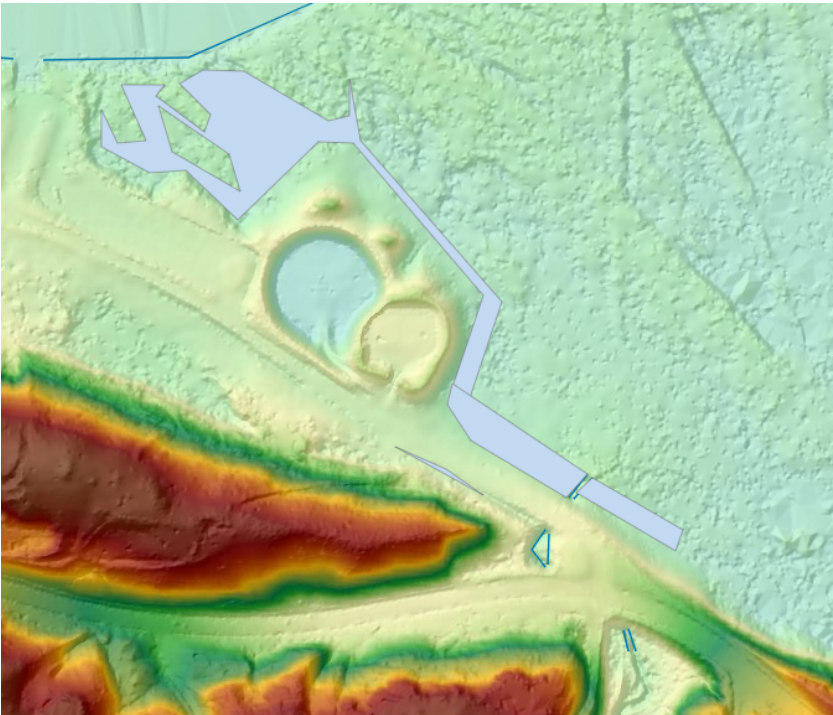




S-10

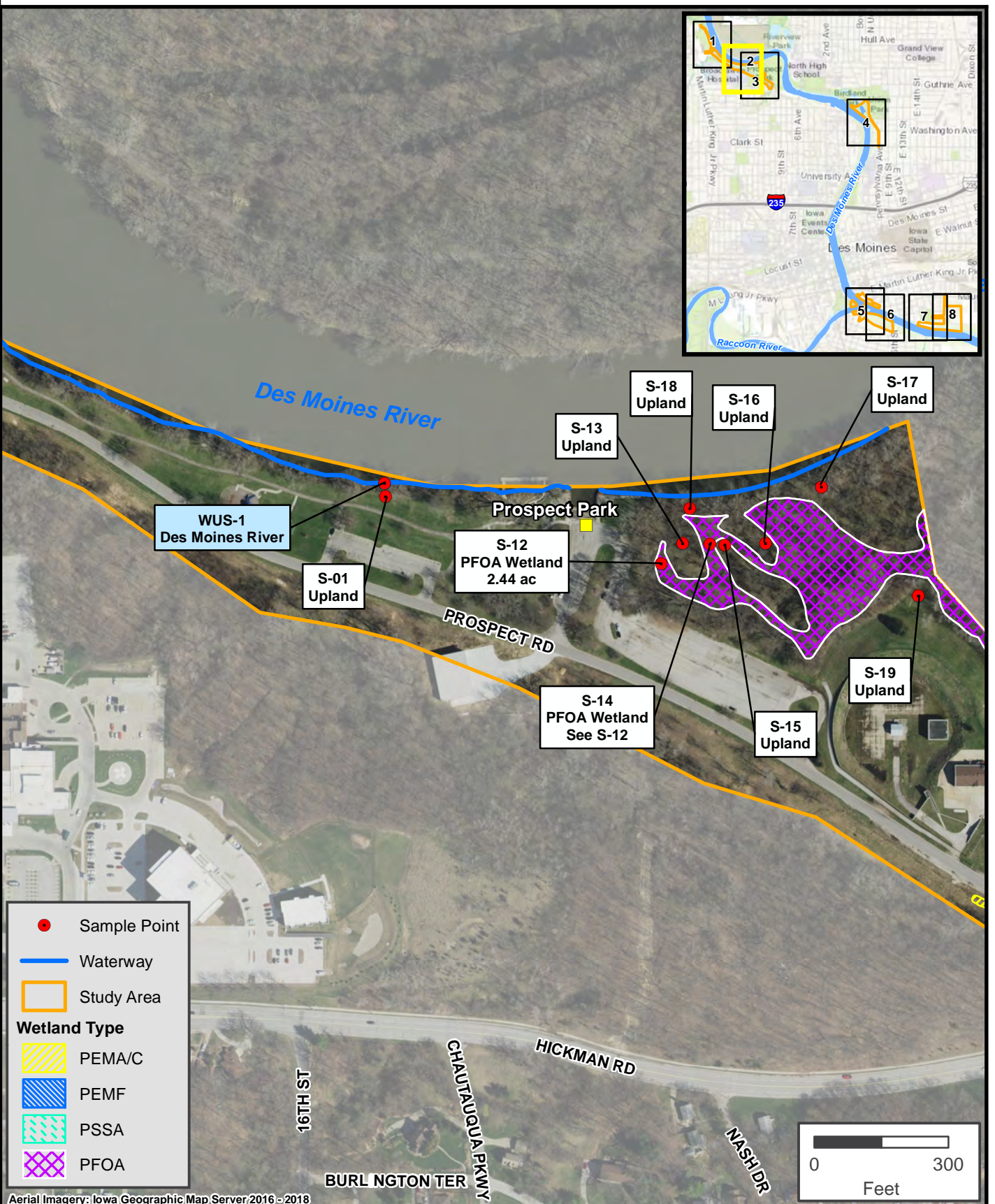


S-06, S-08, & S-04



S,-12/S-14, S-20, WUS-2, & S-24





Aerial Imagery: Iowa Geographic Map Server, 2016 - 2018



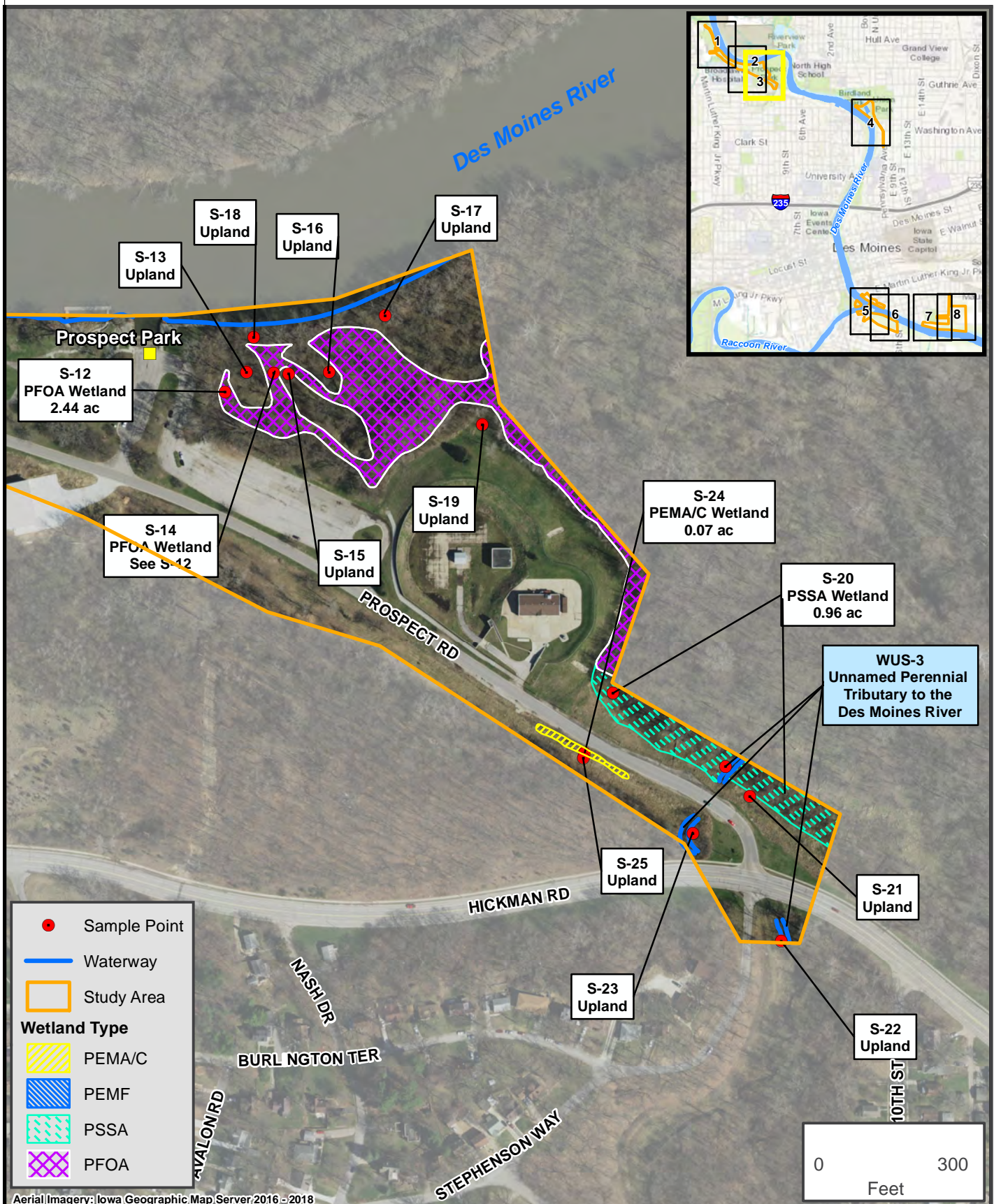
## Wetlands and Water Resources

Des Moines River Activation and Possible Dam Modification  
City of Des Moines, Polk County, Iowa



FIGURE 2, SHEET 2 OF 8





Aerial Imagery: Iowa Geographic Map Server, 2016 - 2018



## Wetlands and Water Resources

Des Moines River Activation and Possible Dam Modification  
City of Des Moines, Polk County, Iowa



FIGURE 2, SHEET 3 OF 8





Representative example of the roadside drainage ditches at Prospect Park, not connected by a culvert to the Des Moines River.

**Photo 24 (S-24)** Emergent wetland area located in an isolated depression south of Prospect Road. Orientation northwest.



S-20 is a replanted forested wetland that was temporarily impacted by permit 2018-393 and is currently in the active monitoring phase of the restoration

**Photo 20 (S-20)** Scrub-shrub wetland located north of Prospect Road. Orientation southeast.



Wetland S-26 directly abutting a backwater of the Des Moines River

**Photo 26 (S-26)** Emergent wetland located north of Birdland Drive at Birdland Marina. Orientation southwest.





Aerial Imagery: Iowa Geographic Map Server 2016 - 2018

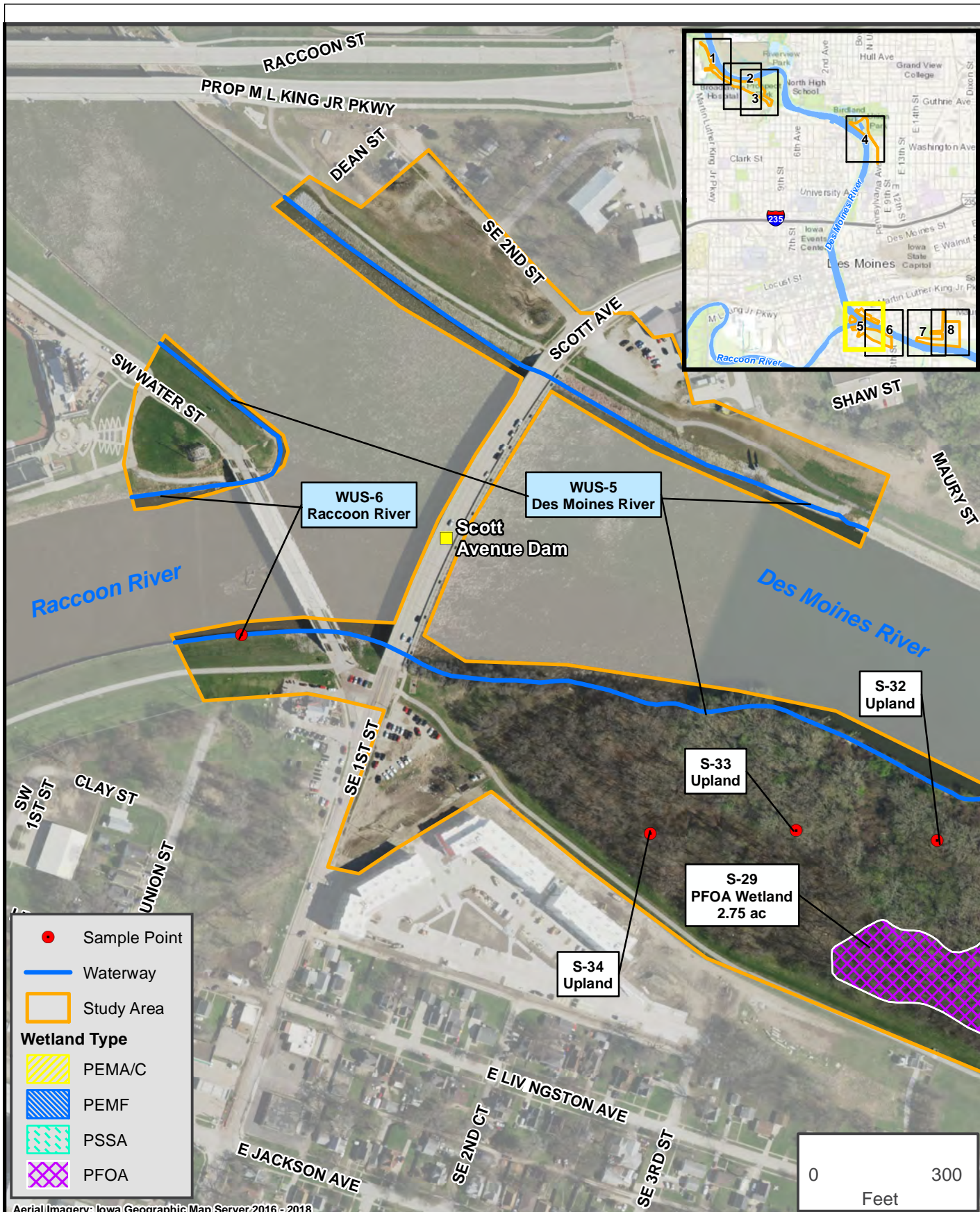


## Wetlands and Water Resources

Des Moines River Activation and Possible Dam Modification  
City of Des Moines, Polk County, Iowa







Aerial Imagery: Iowa Geographic Map Server, 2016 - 2018



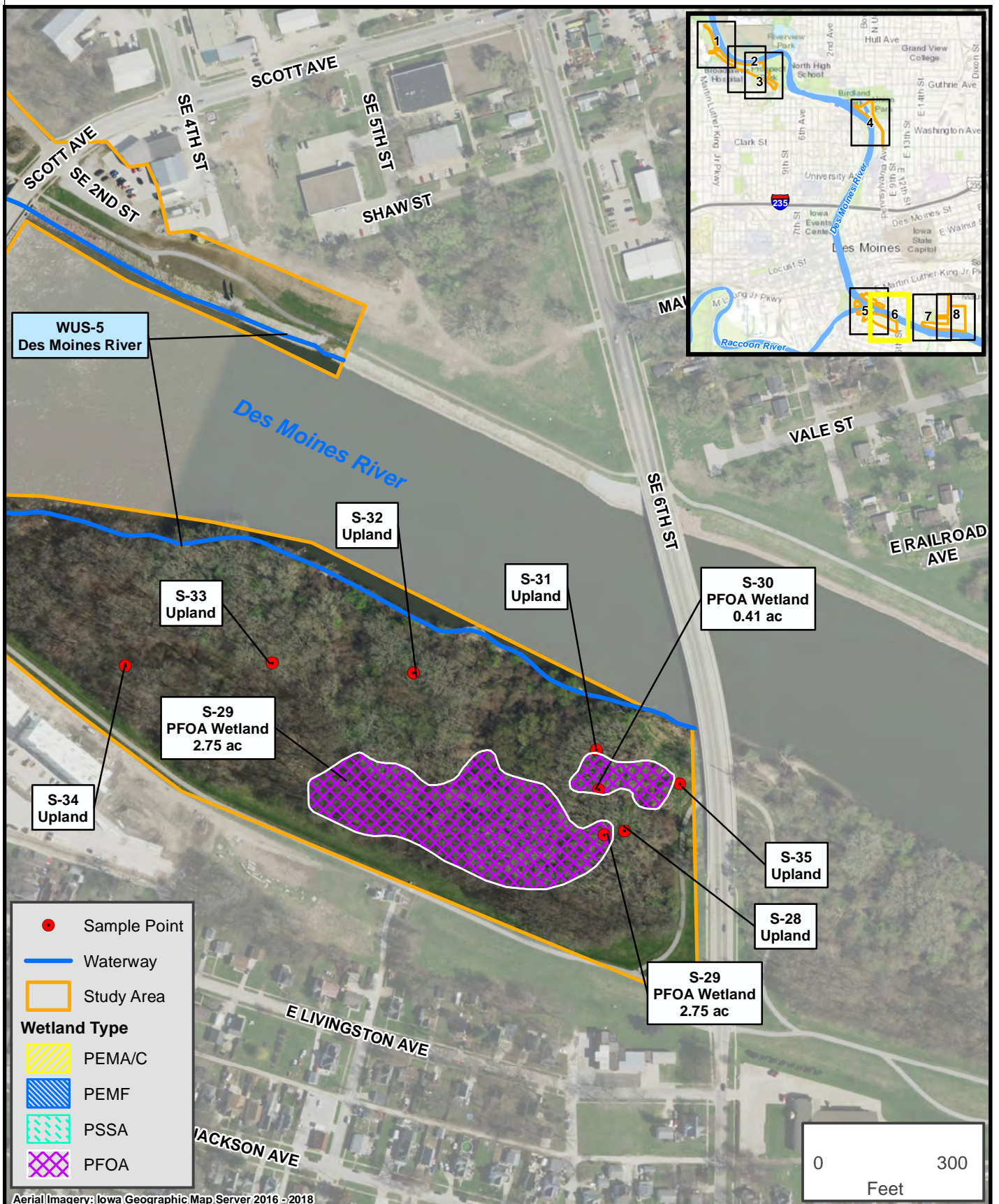
## Wetlands and Water Resources

Des Moines River Activation and Possible Dam Modification  
City of Des Moines, Polk County, Iowa



FIGURE 2, SHEET 5 OF 8





Aerial Imagery: Iowa Geographic Map Server 2016 - 2018



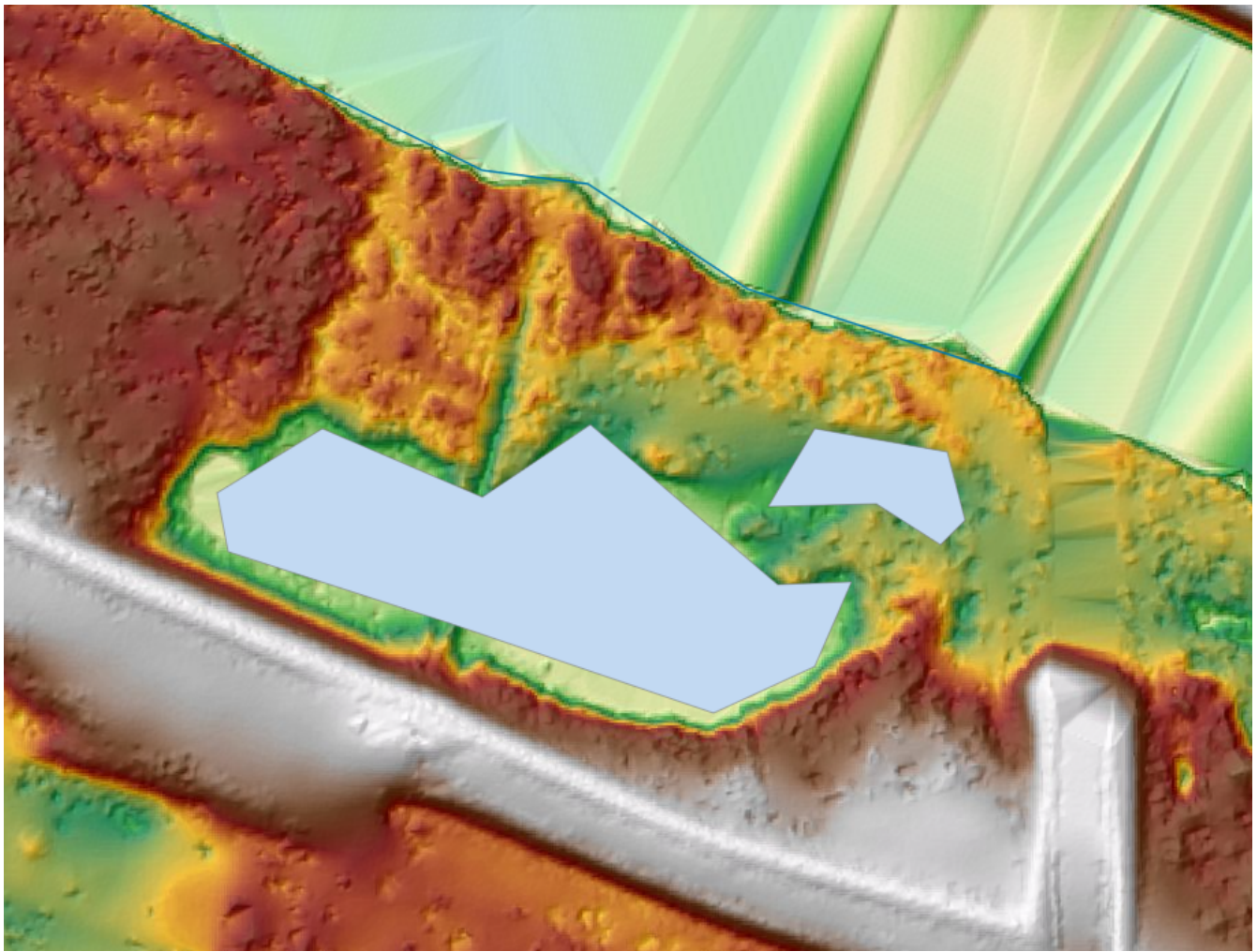
## Wetlands and Water Resources

Des Moines River Activation and Possible Dam Modification  
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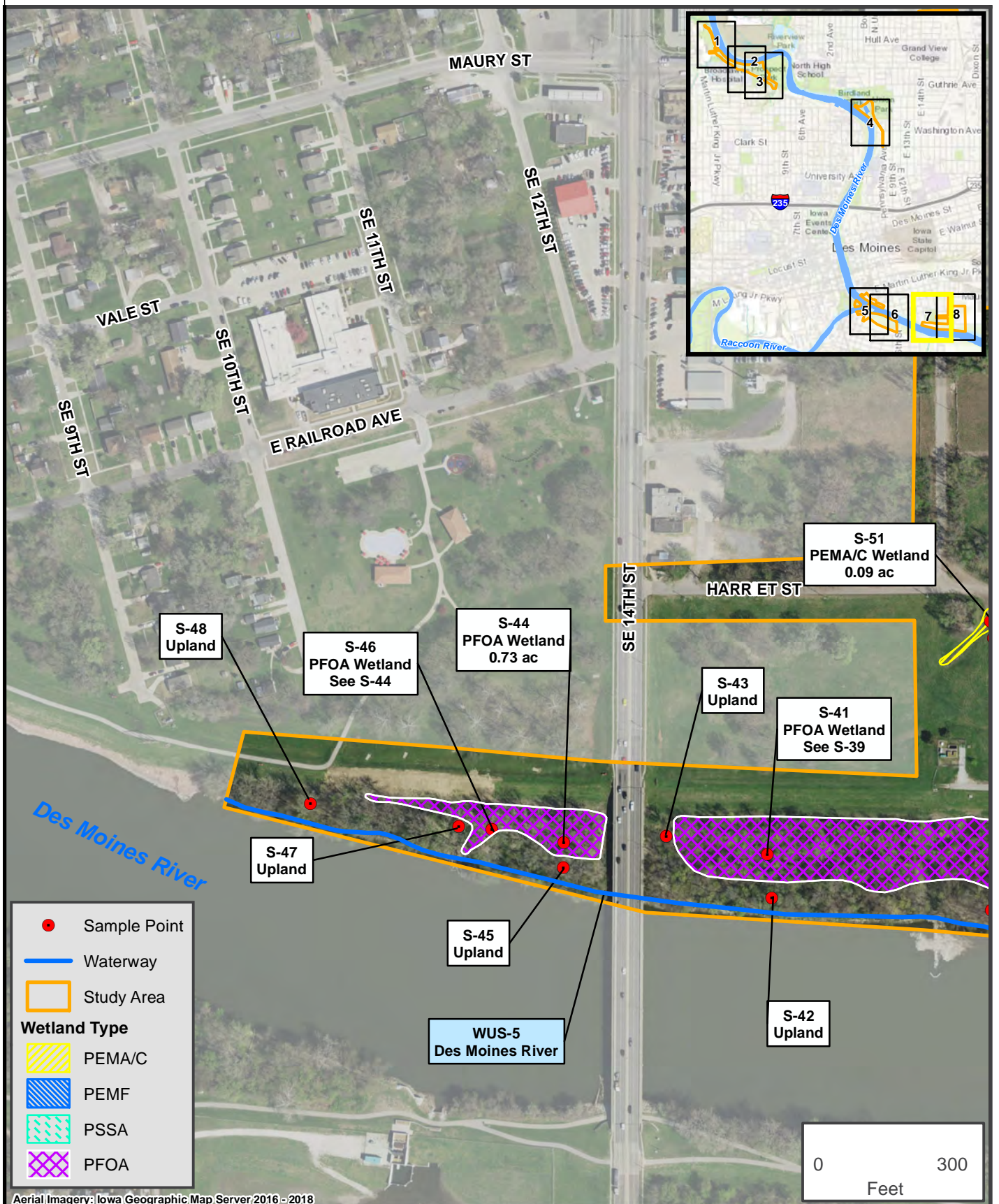


FIGURE 2, SHEET 6 OF 8





Data points S-32, S-40, S-42, S-45, and S-47 were taken in an upland area located in an elevated area created from past river sediment deposition along the bank of the Des Moines River. A natural berm feature that does not sever jurisdiction from Wetland S-29 (2.75 acre PFO), Wetland S-30 (0.41 acre PFO), Wetland S-44/S-46 (0.73 acre PFO), and Wetland S-39/S-41 (2.65 acre PFO), or S-37 (1.77 acre PFO). See photos below for typical representations of the natural berm, which also applies to wetlands S-10 (0.26 acre PFO) and S-08 (0.32 acre PFO).



Aerial Imagery: Iowa Geographic Map Server, 2016 - 2018



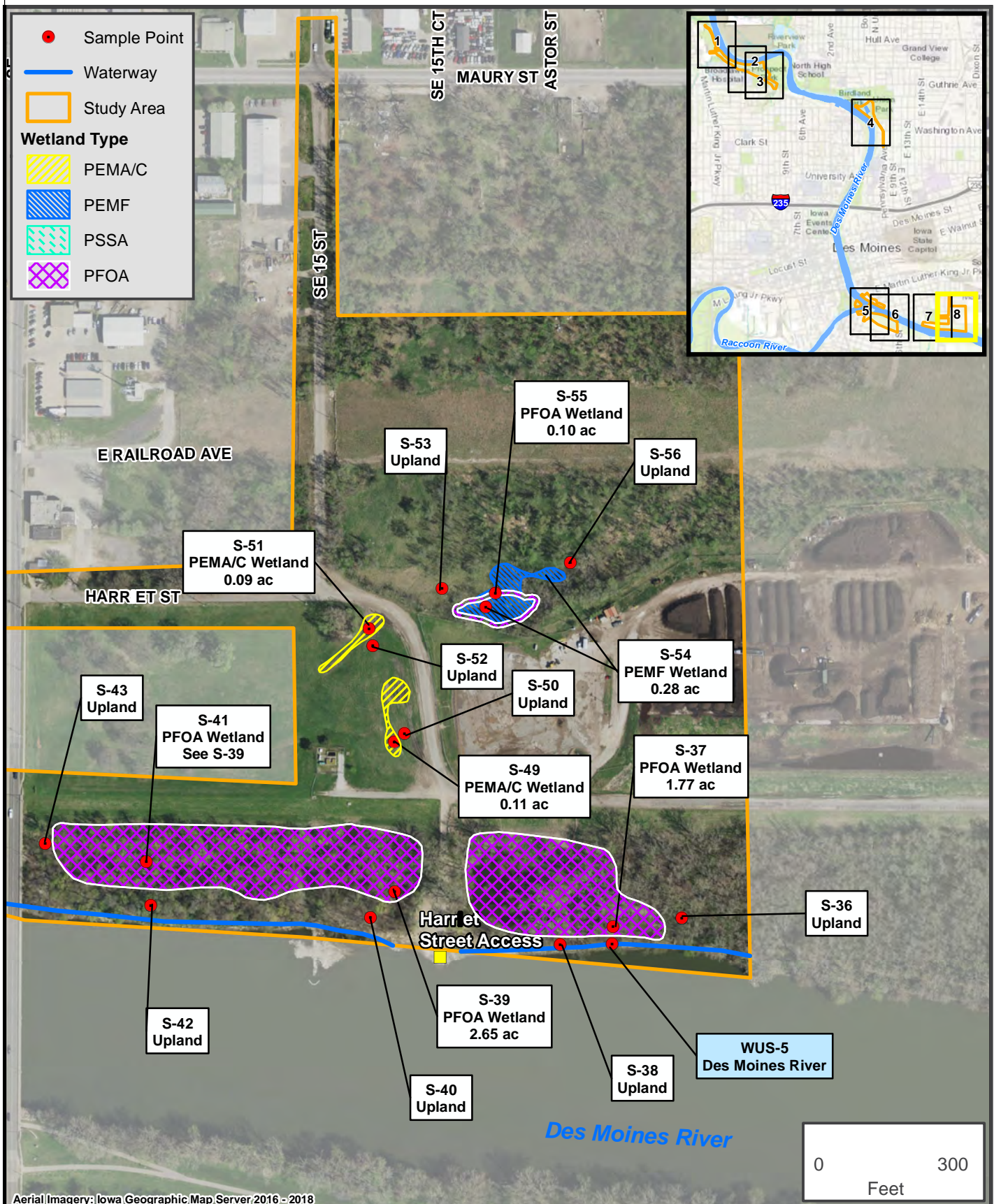
## Wetlands and Water Resources

Des Moines River Activation and Possible Dam Modification  
City of Des Moines, Polk County, Iowa



FIGURE 2, SHEET 7 OF 8





## Wetlands and Water Resources

Des Moines River Activation and Possible Dam Modification  
City of Des Moines, Polk County, Iowa



FIGURE 2, SHEET 8 OF 8





**Photo 38 (S-38)** Upland area adjacent to the forested wetland area north of the Des Moines River at the Harriet Street Access area. Orientation west.

Representative examples of the natural berm along the Des Moines River separating the forested wetlands by past river sediment deposition.



**Photo 40 (S-40)** Upland area adjacent to the forested wetland area north of the Des Moines River at the Harriet Street Access area. Orientation west.



**Photo 45 (S-45)** Upland area adjacent to the forested wetland depression north of the Des Moines River and west of Southeast 14<sup>th</sup> Street at the Harriet Street Access area. Orientation southwest.



Representative  
example of forested  
wetlands in the project  
area



**Photo 39 (S-39)** Forested wetland depression north of the Des Moines River at the Harriet Street Access area. Orientation west.

Emergent  
roadside and  
depressional  
wetlands at  
Harriet Street.  
Not adjacent  
to an (a)(1) -  
(a)(3) waters.



**Photo 49 (S-49)** Emergent wetland depression located west of Harriet Street. Orientation west.

Ponded area and  
adjacent forested  
wetland at Harriet  
Street that is not  
adjacent to an (a)  
(1) - (a)(3) waters.



**Photo 55 (S-55)** Forested wetland located east of the intersection of Southeast 15<sup>th</sup> Street and Harriet Street. Orientation southeast.

Table 1. Delineated Wetlands

Sample ID <sup>1</sup>	Appendix A, Figure 2, Sheet No.	Wetland Classification <sup>2</sup>	Area <sup>3</sup> (acres)
PROSPECT PARK			
S-04	1	PFOA	0.12
S-06	1	PEMA/C	0.01
S-08	1	PFOA	0.32
S-10	1	PFOA	0.26
S-12, S-14	2, 3	PFOA	2.44
S-20	3	PSSA	0.96
S-24	3	PEMA/C	0.07
SUBTOTAL			4.18
BIRDLAND PARK			
S-26	4	PEMA/C	0.07
SUBTOTAL			0.07
SCOTT AVENUE ACCESS			
S-29	5,6	PFOA	2.75
S-30	6	PFOA	0.41
SUBTOTAL			3.16
HARRIET STREET ACCESS			
S-37	8	PFOA	1.77
S-39, S-41	7, 8	PFOA	2.65
S-44, S-46	7	PFOA	0.73
S-49	8	PEMA/C	0.11
S-51	7, 8	PEMA/C	0.09
S-54	8	PEMF	0.28
S-55	8	PFOA	0.10
SUBTOTAL			5.73
TOTAL PEMA/C			0.35
TOTAL PEMF			0.28
TOTAL PSSA			0.96
TOTAL PFOA			11.55
TOTAL			13.14

Highlighted aquatic resources are jurisdictional under Section 404 of the CWA.

Table 2. Delineated Waterways

Sample ID	Appendix A, Figure 2, Sheet No.	Flow Regime	Name
WUS-1	1 - 3	Perennial	Des Moines River
WUS-2	1	Perennial	--
WUS-3	3	Perennial	--
WUS-4	4	Perennial	Des Moines River
WUS-5	5 - 8	Perennial	Des Moines River
WUS-6	5	Perennial	Raccoon River