



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): 01-JUL-2021

ORM Number: MVR-2021-00806-SD

Associated JDs: N/A

Review Area Location¹:

State/Territory: IA City: Cumming County/Parish/Borough: Warren County

Center Coordinates of Review Area: Latitude 41.487011 Longitude -93.774782

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)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)³

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A	N/A	N/A	N/A

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
2021-0806 WL3	0.75 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	WL3 abuts a drainage feature that is directly connected to a culverted intermittent waterway which flows north

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

² 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.

³ 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.

⁴ 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.

⁵ 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.



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

			into an impoundment and further into perennial Middle Creek. Downstream, Middle Creek deposits into the North River which is a direct tributary to Traditional Navigable Waterway Des Moines River.
--	--	--	---

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
2021-0806	70 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Past arials show a lack of bed, bank, flow, and other characteristics to classify this feature as anything but an ephemeral tile drainage.
2021-0806 WL1	0.44 acres	(b)(1) Non-adjacent wetland	WL does not abut a jurisdictional Waters of the U.S. or hold a feasible connection point to a jurisdictional waterway.
2021-0806 WL2	0.39 acres	(b)(1) Non-adjacent wetland	WL does not abut a jurisdictional Waters of the U.S. or hold a feasible connection point to a jurisdictional waterway.
2021-0806 WL4	0.39 acres	(b)(1) Non-adjacent wetland	WL does not abut a jurisdictional Waters of the U.S. or hold a feasible connection point to a jurisdictional waterway.
2021-0806 WL5	0.07 acres	(b)(1) Non-adjacent wetland	WL does not abut a jurisdictional Waters of the U.S. or hold a feasible connection point to a jurisdictional waterway.

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: *Title(s) and date(s)*.
This information *(is)* sufficient for purposes of this AJD.
Rationale: *Applicant supplied an adequate wetland delineation with accurate descriptions of field results (with the exception of wetland 3).*
- ☐ Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- ☒ Photographs: *(Applicant supplied delineation aerial, Google Earth 2017, Topographic, Lidar, WL3 zoomed in) Title(s) and/or date(s)*.
- ☐ Corps Site visit(s) conducted on: *Date(s)*.
- ☐ Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s)*.
- ☐ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- ☐ USDA NRCS Soil Survey: *Title(s) and/or date(s)*.
- ☐ USFWS NWI maps: *Title(s) and/or date(s)*.
- ☐ USGS topographic maps: *Title(s) and/or date(s)*.

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.

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

² 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.

³ 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.

⁴ 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.

⁵ 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.



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

USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	Rock Island RegViewer
State/Local/Tribal Sources	N/A.
Other Sources	National Drought Monitor

- B. Typical year assessment(s):** National Drought monitor lists Polk County, Iowa as Abnormally dry to Moderate Drought on the nearest day of the field delineation (5/11/21).
- C. Additional comments to support AJD:** Applicant supplied a wetland delineation that determined all features were non-jurisdictional under the Clean Water Act. The corps agrees with this determination with the exception of Wetland 3. Wetland 3 is directly connected to an intermittent waterway via a culverted road, leading this wetland to be considered jurisdictional.

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

² 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.

³ 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.

⁴ 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.

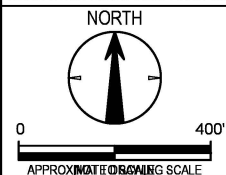
⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not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



LEGEND

- BOUNDARY OF ASSESSED AREA
- WETLAND AREA
- DATA POINT LOCATION
- PHOTO LOCATION & DIRECTION

AERIAL PHOTO FROM IOWA GEOGRAPHIC MAP SERVER MAINTAINED BY IOWA STATE UNIVERSITY AND MIT - <http://cairo.gis.iastate.edu/map.html>



Project No: 08217096
 Date: 5/24/2021
 Project Mgr: ACC
 Drawn By: JAL
 File Name: 08217096-02-WLD.dwg
 Layout Name: E5

Terracon
 Consulting Engineers and Scientists

600 SW 7TH STREET DES MOINES, IOWA 50309
 PH. (515) 244-3184 FAX. (515) 244-5249

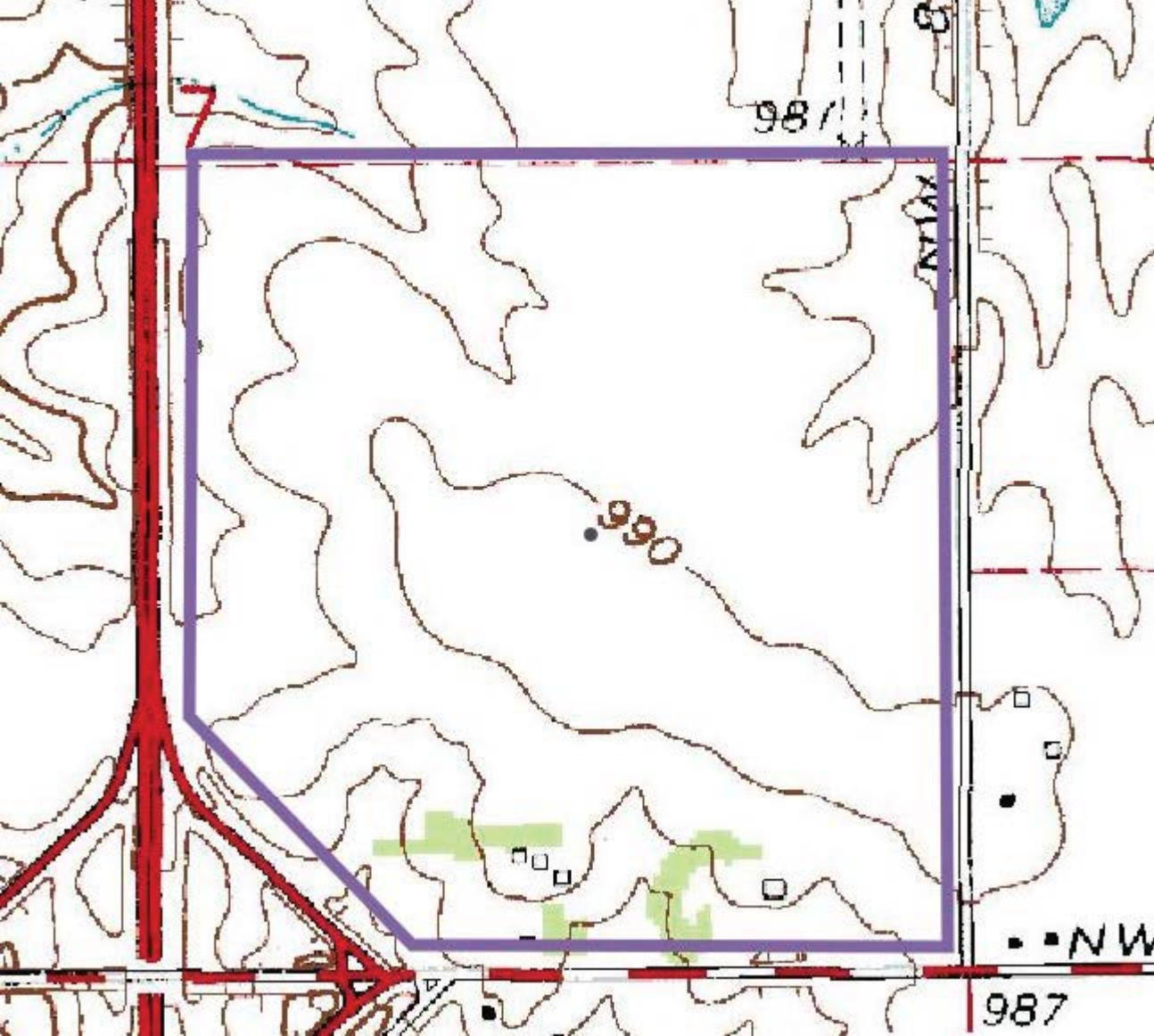
WETLAND DELINEATION MAP

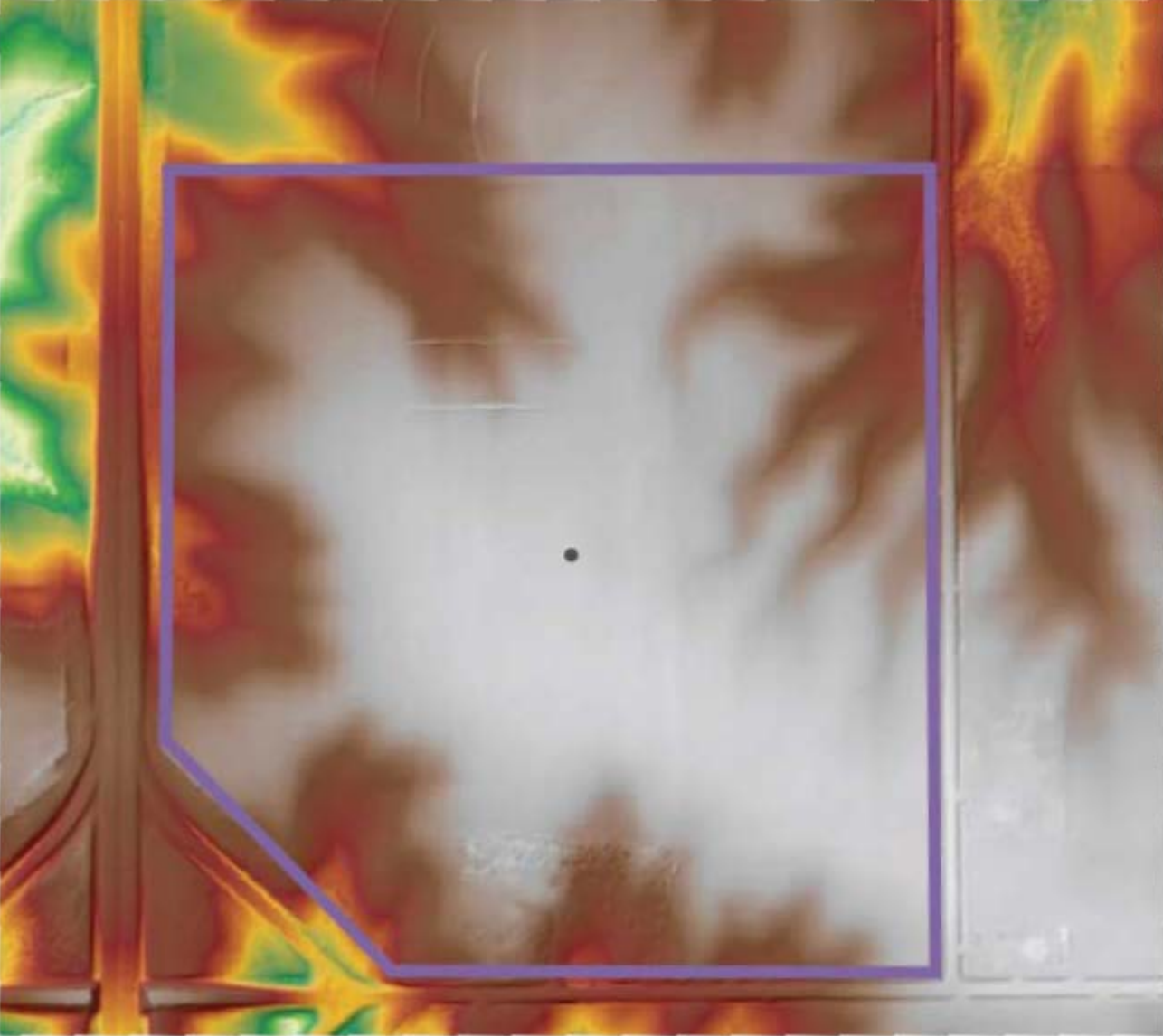
WETLAND DELINEATION
 SPANGLER PROPERTY
 5237 CUMMING AVENUE
 CUMMING, IOWA

EXHIBIT

5







CEMVR-RD-2021-0806

Wetland 3, showing connection via road culvert to intermittent tributary.

Legend

