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): February 2, 2017

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Detroit District, Michiana Branch, GM - Expansion of Fort Wayne Assembly Plant, LRE-2015-00307-102-A15-2

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Indiana County/parish/borough: Allen City: Roanoake
Center coordinates of site (lat/long in degree decimal format): Lat. 40.96838° **N**, Long. -85.29883° **W**.
Universal Transverse Mercator: Zone 16, X642982, Y4536643
Name of nearest waterbody: Pleasant Run Ditch and an unnamed tributary to the Little River
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Little River
Name of watershed or Hydrologic Unit Code (HUC): Eightmile Creek and Aboite Creek - Little River
☒ 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: June 29, 2016 and December 29, 2016
☒ Field Determination. Date(s): April 13, 2016 and April 14, 2016

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: linear feet: width (ft) and/or 2.9 acres.
Wetlands: 3.68 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: **Fifty-two potential wetlands were assessed within the review area. One of those wetlands was determined to**

[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.

be jurisdictional (wetland BL/BM). Of the remaining 51 wetlands, 4 of the potential wetlands were determined to be part of the NPDES waste-water treatment system and therefore are not considered waters of the U.S. Forty-four wetlands are depressions in the landscape with no known surface or subsurface hydrologic connection to a downstream TNW and are considered isolated, and are not waters of the U.S. An additional 3 wetlands were assesed for a potential nexus to a downstream TNW and were determined to be isolated because of a lack of a significant nexus to a downstream TNW and therefore are not waters of the U.S. Details regarding the non-jurisidicational features are as follows:

Four linear wetlands BO, BP, EEE, and YYY are located within the excavated stormwater collection trenches of the NPDES permitted wastewater treatment system as identified in the Fort Wayne Assembly Spill Prevention, Containment & Countermeasure Plan / Storm Water Pollution Prevention Plan. The stormwater collection trenches were constructed to convey stormwater to be held in retention ponds prior to release from the assembly plant property. Such wastewater treatment systems are not considered waters of the United States per 33 CFR 328.3. The total area of these non-waters of the United States is 0.48 acres.

Forty-four wetlands within the review area are isolated depressions within the landscape. No overland flow or connection between these 44 wetlands and a potential surface conveyance was observed during inspection. There is no known subsurface connection between these wetlands and downstream waters. Historical aerial photos taken in 1972, 1964, 1957, and 1938 depict the majority of the review area to be in agricultural production. Sometime between 1972 and 1986 large portions of the site appear to have been graded for assembly plant construction. The areas that meet wetland criteria in the review area are depressions in the landscape, most of which have been previously manipulated by farming and/or earth-moving activities during plant construction. These isolated wetlands are scattered throughout the review area and are labeled AC, AD, AE, AH, AK, AN, AQ, AR, AS, AU, AV, AW, AX, AZ, BC/BD, BE, BF, BG, BJ, BK, BN, BQ, LL, ZZ, AAA, BBB, CCC, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, SSS, and ZZZ. The total area of these isolated wetlands is 6.243 acres.

An additional isolated wetland, AO/BH/BI is situated at the eastern border of the General Motors property line near I-69. A new utility line had recently been installed along the property fence. The utility line and fence form a berm along the property line separating the property from the roadside ditch at I-69. Surface water in the wetland was observed stopping at this berm during inspection, but not flowing over the berm to the roadside ditch. Acknowledging that a man-made barrier such as the berm created by the fence and utility may not serve to sever jurisdiction, the potential flow-path of water in the roadside ditch was reviewed. Water would not travel southward along I-69 as there is a watershed divide and rise in topography south of wetland AO/BH/BI (Break from the Aboite Creek – Little River (0512010110) watershed to Eightmile Creek (0512010109)). Following the potential water flow path using the USGS National Hydrography Dataset, it is unclear where the water may flow northward from I-69 at the wetland area to connect to downstream waters. There is also no observable flow-path in aerial photography or in reviewing applicable Allen County GIS maps to connect to a downstream TNW. There is no known subsurface connection to downstream waters. Because there is no clear potential flow path from wetland AO/BH/BI to downstream waters that can be identified in aerial photos, the USGS NHD layer, and local county drainage maps, the 3.10 acre wetland does not appear to be connected to a downstream TNW and is therefore considered isolated.

Wetlands AF/AG/AI/AJ (1.73 acres) and AL/AM/AY/DD (21.34 acres) appear to have overland flow to the NPDES permitted wastewater treatment system during precipitation and snow melt. Previous jurisdictional determinations have been made for other portions of the Fort Wayne Assembly Plant property in 2011, 2015, and 2016. The approved jurisdictional determinations made in 2011 and 2015 addressed portions of the NPDES permitted wastewater treatment system (particularly the east retention pond and its stormwater collection trenches), and those features were determined not to be waters of the United States, per 33 CFR 328.3. Additionally, multiple wetlands that potentially drain via overland flow through the wastewater treatment system to terminate at the east retention pond were determined to be isolated without a significant nexus to a downstream TNW (LRE-2015-00307-102, dated August 26, 2015 revised September 2, 2015), and therefore are also not considered waters of the United States. In summary, the water within the NPDES permitted wastewater treatment system is retained in the east retention pond and only released by valve operated by plant staff. A review of release logs from January 2012 through April 2015 reports 40 releases, most of which were 24 hours or less in duration. Releases occur at irregular intervals depending upon precipitation. The normal state of the retention pond is closed (96% of the time from January 2012 to April 2015). Wetlands AF/AG/AI/AJ and AL/AM/AY/DD have the same lack of nexus to a downstream TNW as those wetlands evaluated in 2015. Based upon the previous determination made for similarly situated wetlands on other portions of the property, and the 2016 site inspections, wetlands AF/AG/AI/AJ and AL/AM/AY/DD are considered isolated and are not waters of the United States.

In summary, of the fifity-two potential wetlands assessed within the review area 4 were determined to be part of a NPDES permitted waste-water treatment system and are considered non-waters of the United States. Forty-four wetlands are depressional with no known surface or subsurface connection to a downstream TNW and therefore are considered isolated and are not waters of the United States. An additional 3 wetlands were assessed for a potential nexus to a downstream TNW and because of a lack of a significant nexus were determined to be isolated and therefore not waters of the United States. The review area is approximately 3 miles from the nearest TNW. That distance combined with the above outlined factors and lack of direct or indirect hydrologic connection, the impact that the

isolated wetlands would have on the physical, chemical, or biological integrity of a downstream TNW is speculative. The total amount of non-jurisdictional waters in the review area is 32.893 acres.

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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: **acres**
Drainage area: **acres**
Average annual rainfall: inches
Average annual snowfall: inches

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

Project waters are **Pick List** river miles from TNW.
Project waters are **Pick List** river miles from RPW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Project waters are **Pick List** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: .

Identify flow route to TNW[5]: .
Tributary stream order, if known: .

[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.

(b) General Tributary Characteristics (check all that apply):

Tributary is: ☐ Natural
☐ Artificial (man-made). Explain: Roadside ditch at I-69.
☐ Manipulated (man-altered). Explain: .

Tributary properties with respect to top of bank (estimate):
Average width: feet
Average depth: feet
Average side slopes: **Pick List.**

Primary tributary substrate composition (check all that apply):

☐ Silts	☐ Sands	☐ Concrete
☐ Cobbles	☐ Gravel	☐ Muck
☐ Bedrock	☐ Vegetation. Type/% cover:	
☐ Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .
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: .

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

[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.

(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: acres

Wetland type. Explain: P.

Wetland quality. Explain: .

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: .

Surface flow is**: Pick List**

Characteristics: Less than ephemeral to no flow. .

Subsurface flow: **Pick List**. Explain findings: .

- ☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Directly abutting
- ☐ Not directly abutting
  - ☐ Discrete wetland hydrologic connection. Explain: .
  - ☐ Ecological connection. Explain: .
  - ☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List.**

Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Wetlands receive water from precipitation events. There is no known chemical contribution to a downstream TNW.

Identify specific pollutants, if known: .

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

- ☐ Riparian buffer. Characteristics (type, average width): .
- ☐ Vegetation type/percent cover. Explain: .
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .
  - ☐ Other environmentally-sensitive species. Explain findings: .
  - ☐ Aquatic/wildlife diversity. Explain findings: .

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

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately ( ) 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)

Summarize overall biological, chemical and physical functions being performed: .

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: Wetland AO/BH/BI is situated with its eastern border abutting the eastern General Motors property line near I-69 and was inspected in April 2016. This partially forested wetland is visible on historic aerial photos as a square woodlot. The woodlot was bisected by I-69 during its construction. The wetland provides habitat for forest and grassland species, American woodcock with young were observed during inspection. The wetland edge abuts the property fence and a berm formed by the recent installation of a new City of Fort Wayne 16" watermain. Wetland AO/BH/BI appears to be seperated from the ditch at I-69 by this berm. It is unknown if any water would have drained to the roadside ditch prior to fence and utility installation. Surface water in the wetland was observed stopping at this berm during inspection, but not flowing over the berm to the roadside ditch. Acknowledging that a man-made barrier such as the berm created by the fence and utility may not serve to sever jurisdiction, and that water from this wetland could potentially flow into the roadside ditch at I-69 during large precipitation events, the potential flow-path of water in the roadside ditch was reviewed using applicable maps. Water would not travel southward along I-69 as there is a watershed divide and rise in topography south of wetland AO/BH/BI (Break from the Aboite Creek – Little River (0512010110) watershed to Eightmile Creek (0512010109)). Following the potential water flow path using the USGS National Hydrography Dataset, it is unclear where the water may flow northward from I-69 at the wetland area to connect to downstream waters. There is also no observable flow-path in aerial photography or in reviewing applicable Allen County GIS maps to connect to a downstream TNW. Because there is no clear potential flow path or connection from wetland AO/BH/BI to a downstream TNW that can be identified in aerial photos, the USGS NHD layer, and local county drainage maps, wetland AO/BH/BI is considered isolated and does not appear to significantly affect a downstream TNW. There is no known subsurface connection to downstream waters. Because of the lack of an identifiable hydrological connection, there is no known significant chemical, biological or hydrologic connection to a TNW that would be more than speculative. Therefore, wetland AO/BH/BI is considered isolated and is not a water of the United States. Wetlands AF/AG/AI/AJ and AL/AM/AY/DD are situated within the north-central portion of the property and are mixed emergent and forested wetlands. Large portions of the wetland areas were farmed prior to site development. Extensive site grading occurred in a portion of these current wetland areas during plant construction; compaction of clay soils may have contributed to wetland formation. These wetlands provide habitat for forest and

grassland species. Wetlands AF/AG/AI/AJ and AL/AM/AY/DD appear to have overland flow to the NPDES permitted wastewater treatment system during precipitation and snow melt. Previous jurisdictional determinations have been made for other portions of the Fort Wayne Assembly Plant property in 2011, 2015, and 2016. The approved jurisdictional determinations made in 2011 and 2015 addressed portions of the NPDES permitted wastewater treatment system (particularly the east retention pond and its stormwater collection trenches), and those features were determined not to be waters of the United States, per 33 CFR 328.3. Additionally, multiple wetlands that potentially drain via overland flow through the wastewater treatment system to terminate at the east retention pond were determined to be isolated without a significant nexus to a downstream TNW (LRE-2015-00307-102, dated August 26, 2015 revised September 2, 2015), and therefore are also not considered waters of the United States. In summary, the water within the NPDES permitted wastewater treatment system is retained in the east retention pond and only released by valve operated by plant staff. A review of release logs from January 2012 through April 2015 reports 40 releases, most of which were 24 hours or less in duration. Releases occur at irregular intervals depending upon precipitation. The normal state of the retention pond is closed (96% of the time from January 2012 to April 2015). Wetlands AF/AG/AI/AJ and AL/AM/AY/DD have the same lack of nexus to a downstream TNW as those wetlands evaluated in 2015. Based upon the previous determination made for similarly situated wetlands on other portions of the property, and the 2016 site inspections, wetlands AF/AG/AI/AJ and AL/AM/AY/DD are considered isolated and are not waters of the United States. Wetlands AF/AG/AI/AJ, AL/AM/AY/DD, and AO/BH/BI do not possess a known significant nexus to a downstream TNW. Based upon the lack of direct or indirect hydrologic connection, the impact that these isolated wetlands would have on the physical, chemical, or biological integrity of a downstream TNW is speculative. .

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
   - ☐ 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: linear feet 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 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: **Historical aerial photos document the impoundment of an unnamed tributary (county maps label the tributary Elmer Branch #1) to the Little River either in or prior to 1986. It appears that the unnamed tributary was impounded during assembly plant construction activities and piped under Fogwell Parkway at the property's western perimeter fence. The unnamed tributary to the Little River is depicted as an intermittent stream on the USGS topographic map. At the April 14, 2016 inspection the culvert pipes were**

[8]See Footnote # 3.

submersed within the open water component of wetland BL/BM. The culvert pipes convey water from wetland BL/BM under a berm at the fence of the property perimeter. Google Earth aerial photos show a culvert outletting at the east side of Fogwell Parkway. Aerial images depict the pond holding water consistently since the impoundment of the stream.

☐ 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: **6.58** 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: acres.

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]

☐ 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).

[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.*

☒ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: **See Sections III.C.2 and IV.B.**

☒ Other: (explain, if not covered above): **Features identified by the consultant as linear emergent wetland lie within drainage trenches or swales constructed as part of the NPDES permitted stormwater treatment system and are not considered a water of the United States per 33 CFR 328.3.**

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

☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☒ Wetlands: 32.413
acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☒ Wetlands: 26.170 acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: GHD Services, revised June 1, 2016.
☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  ☒ Office concurs with data sheets/delineation report.
  ☐ Office does not concur with data sheets/delineation report.
☐ Data sheets prepared by the Corps: .
☐ Corps navigable waters' study: .
☒ U.S. Geological Survey Hydrologic Atlas: .
  ☒ USGS NHD data.
  ☒ USGS 8 and 12 digit HUC maps.
☒ U.S. Geological Survey map(s). Cite scale & quad name:1:24K, Zanesville, Indiana Quadrangle.
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Hydric Rating by Map Unit - Allen County, Indiana, Web Soil Survey.
☒ National wetlands inventory map(s). Cite name: USFWS Online Wetlands Mapper.
☐ State/Local wetland inventory map(s): .
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date):Allen County iMap GIS Engineering Viewer 2012, 2009, 2008, 2006, 2003, 1999, 1995, 1986, 1972, 1964, 1957, and 1938; Google Earth.
  or ☐ Other (Name & Date): .
☒ Previous determination(s). File no. and date of response letter: LRL-2010-1167-lcl, February 2011, LRE-2016-00307-102, August 26, 2015 revised September 2, 2016.
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☒ Other information (please specify): April 13 and 14, 2016 site inspections, Fort Wayne Assembly Plant stormwater pollution prevention plan, GM East Stormwater Pond Discharge Logs, Hoggart, R.E., 1975. Drainage Areas of Indiana Streams, USGS - Water Resources Divison and IDNR - Division of Water., ORM maps, USGS NHD and USDA HUC 10 layers.

B. ADDITIONAL COMMENTS TO SUPPORT JD: Previous jurisdictional determinations have been made for other portions of the Fort Wayne Assembly Plant property in 2011, 2015, and 2016. Those approved jurisdictional determinations made in 2011 and 2015 addressed portions of the NPDES permitted wastewater treatment system (particularly the east retention pond and its stormwater collection trenches), and those features were determined not to be waters of the United States. Additionally, multiple wetlands that potentially drain via overland flow through the wastewater treatment system to terminate at the east retention pond were determined to be isolated without a significant nexus to a downstream TNW (LRE-2015-00307-102, dated August 26, 2015 revised September 2, 2015), and therefore are also not considered waters of the United States. This jurisdictional determination addresses features not evaluated during the previous requests for jurisdictional determinations at the assembly plant property.

Inspections were conducted on April 13th and 14th of 2016. Though there was no precipitation recorded on the 12th, 13th or 14th at the Fort Wayne International Airport, precipitation was recorded every day from April 1st through April 11th totaling 1.5 inches of rain and 1.1

inches of snow and/or ice. Soils were saturated and the majority of wetland areas contained surface water. Surface water and potential flow patterns were evident during inspection.

Fifty-two potential wetlands were assessed within the review area. One of those wetlands was determined to be jurisdictional (wetland BL/BM). Of the remaining 51 wetlands, 4 of the potential wetlands were determined to be part of the NPDES waste-water treatment system and therefore are not considered waters of the U.S. Forty-four wetlands are depressions in the landscape with no known surface or subsurface hydrologic connection to a downstream TNW and are considered isolated, and are not waters of the U.S. An additional 3 wetlands were assesed for a potential nexus to a downstream TNW and were determined to be isolated because of a lack of a significant nexus to a downstream TNW and therefore are not waters of the U.S. Details regarding the non-jurisidicational features are as follows:

Four linear wetlands BO, BP, EEE, and YYY are located within the excavated stormwater collection trenches of the NPDES permitted wastewater treatment system as identified in the Fort Wayne Assembly Spill Prevention, Containment & Countermeasure Plan / Storm Water Pollution Prevention Plan. The stormwater collection trenches were constructed to convey stormwater to be held in retention ponds prior to release from the assembly plant property. Such wastewater treatment systems are not considered waters of the United States per 33 CFR 328.3. The total area of these non-waters of the United States is 0.48 acres.

Forty-four wetlands within the review area are isolated depressions within the landscape. No overland flow or connection between these 44 wetlands and a potential surface conveyance was observed during inspection. There is no known subsurface connection between these wetlands and downstream waters. Historical aerial photos taken in 1972, 1964, 1957, and 1938 depict the majority of the review area to be in agricultural production. Sometime between 1972 and 1986 large portions of the site appear to have been graded for assembly plant construction. The areas that meet wetland criteria in the review area are depressions in the landscape, most of which have been previously manipulated by farming and/or earth-moving activities during plant construction. These isolated wetlands are scattered throughout the review area and are labeled AC, AD, AE, AH, AK, AN, AQ, AR, AS, AU, AV, AW, AX, AZ, BC/BD, BE, BF, BG, BJ, BK, BN, BQ, LL, ZZ, AAA, BBB, CCC, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, SSS, and ZZZ. The total area of these isolated wetlands is 6.243 acres.

An additional isolated wetland, AO/BH/BI is situated at the eastern border of the General Motors property line near I-69. A new utility line had recently been installed along the property fence. The utility line and fence form a berm along the property line separating the property from the roadside ditch at I-69. Surface water in the wetland was observed stopping at this berm during inspection, but not flowing over the berm to the roadside ditch. Acknowledging that a man-made barrier such as the berm created by the fence and utility may not serve to sever jurisdiction, the potential flow-path of water in the roadside ditch was reviewed. Water would not travel southward along I-69 as there is a watershed divide and rise in topography south of wetland AO/BH/BI (Break from the Aboite Creek – Little River (0512010110) watershed to Eightmile Creek (0512010109)). Following the potential water flow path using the USGS National Hydrography Dataset, it is unclear where the water may flow northward from I-69 at the wetland area to connect to downstream waters. There is also no observable flow-path in aerial photography or in reviewing applicable Allen County GIS maps to connect to a downstream TNW. There is no known subsurface connection to downstream waters. Because there is no clear potential flow path from wetland AO/BH/BI to downstream waters that can be identified in aerial photos, the USGS NHD layer, and local county drainage maps, the 3.10 acre wetland does not appear to be connected to a downstream TNW and is therefore considered isolated.

Wetlands AF/AG/AI/AJ (1.73 acres) and AL/AM/AY/DD (21.34 acres) appear to have overland flow to the NPDES permitted wastewater treatment system during precipitation and snow melt. Previous jurisdictional determinations have been made for other portions of the Fort Wayne Assembly Plant property in 2011, 2015, and 2016. The approved jurisdictional determinations made in 2011 and 2015 addressed portions of the NPDES permitted wastewater treatment system (particularly the east retention pond and its stormwater collection trenches), and those features were determined not to be waters of the United States, per 33 CFR 328.3. Additionally, multiple wetlands that potentially drain via overland flow through the wastewater treatment system to terminate at the east retention pond were determined to be isolated without a significant nexus to a downstream TNW (LRE-2015-00307-102, dated August 26, 2015 revised September 2, 2015), and therefore are also not considered waters of the United States. In summary, the water within the NPDES permitted wastewater treatment system is retained in the east retention pond and only released by valve operated by plant staff. A review of release logs from January 2012 through April 2015 reports 40 releases, most of which were 24 hours or less in duration. Releases occur at irregular intervals depending upon precipitation. The normal state of the retention pond is closed (96% of the time from January 2012 to April 2015). Wetlands AF/AG/AI/AJ and AL/AM/AY/DD have the same lack of nexus to a downstream TNW as those wetlands evaluated in 2015. Based upon the previous determination made for similarly situated wetlands on other portions of the property, and the 2016 site inspections, wetlands AF/AG/AI/AJ and AL/AM/AY/DD are considered isolated and are not waters of the United States.

Wetland BL/BM appears to be an impoundment of an unnamed tributary to the Little River. This unnamed tributary is labeled “Elmer Branch #1” on Allen County GIS and is a county regulated drain. It is depicted as an intermittent stream on the USGS topographic map. Earthwork activities for the plant and the construction of Fogwell Parkway appear to have impounded the headwaters of the unnamed tributary, creating an open water pond with abutting wetlands. The pipe culverts present under Fogwell Parkway connecting Wetland BL/BM to the downstream portion of the unnamed tributary to the Little River (Elmer Branch #1) were observed at inspection. A review of aerial photos show the pond holding water since the impoundment of the stream (sometime between 1972 and 1982). Therefore wetlands BL/BM (6.58 acres) are abutting an RPW and are considered waters of the United States.

In summary, fifty-two potential wetlands were assessed within the review area. One wetland, BL/BM was determined to be an RPW with abutting wetlands totalling 6.58 acres (PEM: 0.61, PSS: 0.34, PFO: 2.73, open water 2.90 acres), and is considered a water of the United States. Four potential wetlands within the review area were determined to be part of a NPDES permitted waste-water treatment system and are considered non-waters of the United States. Forty-four wetlands are depressional with no known surface or subsurface connection to a

downstream TNW and therefore are considered isolated and are not waters of the United States. An additional 3 wetlands were assessed for a potential nexus to a downstream TNW and because of a lack of a significant nexus were determined to be isolated and therefore not waters of the United States. The review area is approximately 3 miles from the nearest TNW. That distance combined with the above outlined factors and lack of direct or indirect hydrologic connection, the impact that the isolated wetlands would have on the physical, chemical, or biological integrity of a downstream TNW is speculative. The total amount of non-jurisdictional waters in the review area is 32.893 acres.

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