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): October 27, 2021

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Detroit District - Michiana Branch, Schipper Property - JD, LRE-2021-00603-102

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Indiana County/parish/borough: Allen City: Leo Cedarville
Center coordinates of site (lat/long in degree decimal format): Lat. 41.228541° **N**, Long. 85.032184° **W**.
Universal Transverse Mercator: Zone 16
Name of nearest waterbody: Conrad Branch of the Alex Warner Ditch
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Maumee River
Name of watershed or Hydrologic Unit Code (HUC): 04100003 (St. Joseph)

☒ 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: October 27, 2021
☒ Field Determination. Date(s): June 22, 2021

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** "*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: 51 linear feet: 2 width (ft) and/or acres.
      Wetlands: 0.56 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: .

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW
Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW
Summarize rationale supporting conclusion that wetland is "adjacent": .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:
Watershed size: 6 **square miles**
Drainage area: 6 **square miles**
Average annual rainfall: 38 inches
Average annual snowfall: 30 inches

(ii) Physical Characteristics:
(a) Relationship with TNW:
☐ Tributary flows directly into TNW.
☒ Tributary flows through **2** tributaries before entering TNW.

Project waters are **10-15** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **5-10** aerial (straight) miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: .

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

Identify flow route to TNW[5]: Section II flows into and through Section III (Forested Wetland) which abuts/discharges itno the Conrad Branch of the Alex Warner Ditch, which then flows into the Alex Warner Ditch, then into the St. Joseph River and then the Maumee River, a Section 10 TNW.
Tributary stream order, if known: .

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☐ Manipulated (man-altered). Explain: .

Tributary properties with respect to top of bank (estimate):
Average width: 2 feet
Average depth: unknown feet
Average side slopes: **Vertical (1:1 or less).**

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: The tributary (Section II) appeard stable with no avtive erosion observed during the site visit.
Presence of run/riffle/pool complexes. Explain: located in a Muck soil, no run/riffle/pool complex.
Tributary geometry: **Relatively straight**
Tributary gradient (approximate average slope): %

(c) Flow:
Tributary provides for: **Seasonal flow**
Estimate average number of flow events in review area/year: **20 (or greater)**
Describe flow regime: Flow occurs during and post precipitation events, and during snow melt. Section II and the abutting wetland Section I (Ephemeral Wetland) are charged predominaltey by runoff from the surronidng residential and agriculatural area. A high water table also appears to be present per the datasheets prepared for Section I, contributing to wetland hydrology and tributary flow. For information on the offsite RPW, Conrad Branch of the Alex Warner Drain see Section IV.B.
Other information on duration and volume: .

Surface flow is: **Discrete and confined.** Characteristics: .

Subsurface flow: **Unknown**. 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:Water flows from wetland Section I into Section II. Section II flows ino Wetland Section III (Forested Wetland). Section III is a large wetland complex that continues off-site and abuts a RPW, Conrad Branch of the Alex Warner Ditch (See Section IV.B for information.) Section I and Section II receive water from the surronding areas, which them mixes with the water in Section III and discharges into the Conrad Branch of the Alex Warner Ditch. While the stream channel from Section II never reforms and exits Section III, Section III does abut an RPW and thefore Section I and Section II contribute surface water to a downstream RPW and ultimaltey and the Maumee River, a Section 10 TNW.

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:

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

- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other (list):
- ☐ survey to available datum;
- ☐ physical markings;
- ☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: No water was observed duirng the site inspection. .

Identify specific pollutants, if known: The water entering Section II would have chemical characteristics typical of water draining from residentail and agriculatural areas and would transport pollutants such sediments, nitrates, phosphrous and other polltants found in a residential and agricultural areas. Section I and Section II, along with Section III, provide the some ability to filter pollutants and retain floodwaters, acting as a buffer to protect the water quality of the Conrad Branch of the Alex Warner Ditch, the Alex Warner Ditch, the St. Joseph River, and the Maumee River, a Section 10 TNW.

(iv) Biological Characteristics. Channel supports (check all that apply):

☒ Riparian corridor. Characteristics (type, average width): area immediately surrouning Section I, II and III along with the the Conrad Branch of the Alex Warner Drain is comprised of undeveloped land with some residential and agricultural areas. The undeveloped areas undoubtedly serves as a corridor for typical wildlife in the large wetland complex.

☒ Wetland fringe. Characteristics: muck wetland.

☐ 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:total wetland area is approximately 0.1 acres

Wetland type. Explain:forested.

Wetland quality. Explain: Fair to good, adjacent residential and agricultural areas allows for relatively high volumes of runoff to enter wetlands, expect this runoff to contain a variety of chemicals and other pollutants associated with residential and agricultural areas.

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: Hydrology for the wetland is driven by precipition and snow melt and whould discharge into Section II and though Setion III ultimtatley flowing into the Maumee River a Section 10 TNW. .

Surface flow is**: Overland sheetflow**

Characteristics: .

Subsurface flow: **Unknown**. Explain findings: Section I per the wetland data sheets which indicate a high water table and given its close proximity to Section II water could enter the channel of Section II just below the surface.

☐ 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 **10-15** river miles from TNW.

Project waters are **5-10** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters.**

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: Section I receives surface water from the surrounding forest and adjacent farmland with interspersed residential areas; surface water coloration appeared normal. The chemical composition of the the wetland would vary according to precipitation event fequency and amount. Section I (along with Section II and III) will filter pollutants and retain floodwaters, acting as a buffer to protect the water quality of Conrad Branch of the Alex Warner Ditch, the Alex Warner Ditch, the St. Joseph River, and the Maumee River, a Section 10 TNW.

Identify specific pollutants, if known: .

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

☒ Riparian buffer. Characteristics (type, average width):Section I is situated within a large forested tract, the forested area is approximately 38 acres in size on-site and is immediately adjacent to additional forest land off-site. This forested area is connected to the riparian zone of Section II which along with Section III act as a corridor to the St. Joseph River and the downstream Section 10 TNW, the Maumee River.

☒ Vegetation type/percent cover. Explain:emergent near RPW and Forested above the emergent area.

☐ 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: **2**

Approximately (40) 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)
Section 1 (Y)	0.01	Wetland 2 (Y)	0.55
Forested/emergent wetland (Y) 38ac			
Emergent/Forested - offsite (Y) 14ac			

Summarize overall biological, chemical and physical functions being performed: Section I (0.1 acres), II (50 feet) , and III (0.55 acres-Section III is part of a larger wetland complex that continues off site which is approximately 38 acers in size) along with the other wetlands in the relevaent reach perform biological, chemical, and physical functions which influence the integrity of downstream waters, including the Maumee River, a Section 10 TNW. The forested wetlands produce sources of nutrients that contribute to the downstream foodwebs for fisheries and other aquatic and/or semi-aquatic species. The wetlands also retain and filter surface waters to improve water quality downstream by settling and adsorbing particulates and potential contaminants received from the surrounding agricultrual fields and residential areas. The wetlands serve as retention areas for floodwaters during precipitation events and slow flow of floodwaters to downstream waterbodies. The Corps of Engineers along with the City of Fort Wayne have implemented flood control projects downstream of the subject wetlands and tributaries on the St. Joseph and Maumee Rivers. Decreasing the flood storage capacity of Section I and II along with Section III would likely contribute to increased downstream flood hazards. Additionally, the state of Indiana has issued Fish Consumption Advisories on the St. Joseph River and the Maumee River. The Maumee River at its mouth is a designated EPA Area of Concern in part because of the river's pollutants and sediments causing eutrophication of Lake Erie. Negative impacts to the Maumee River's tributaries and adjacent wetlands chemical, physical, and biological functions would contribute to further degradation of the TNW's water quality, flood hazards, ecological integrity, and aquatic functions. According a 2008 study of the Lower St. Joseph River Watershed along with a 2006 St. Jospeh River Watershed Management Plan pollutants were one of the many factors having a negative impact on water quality. Some of the pollutants that are affecting the water quality the St. Joseph River that are outlined in the two reports include, but are not limited to sediment, nutrients which include nitrogen, phosphate, and toxins from pesticides and herbicides and fecal coloform. Both reports stated that wetland loss was one of the many factors that are increasing the levels of pollutants into the St. Joseph River and contributing to flood issues. The subject wetlands and tributary provide more than an insubstantial role in maintaining the physical, biological, and chemical integrity of the St. Joseph River and ulitimatley the Maumee River, a Section 10 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: Section I abuts a short tributary, Section II, which connects to and discharges into Section III. Section III is part of a large wetland complex that abuts the Conrad Branch of the Alex Warner Drain. Most of the

larger wetland complex is outside the review area (site). The wetlands and tributary in the review are retain and desynchronize flows of water into the Cornrad Branch of the Alex Warner Drain and, as such, helped mitigate potential flooding in the St. Joseph River and in the Maumee River. Wetlands and tributaries such as these often provide direct water inputs into perennial tributaries including storm water and snow melt water with substantial amounts of sediment and agricultural chemicals. Wetlands adjacent to tributaries can store runoff water and reduce flood peaks downstream while removing pollutants before they enter larger steams. Most of the wetlands in the Maumee River watershed in Indiana are relatively small and exist as fragments or relic portions of the Great Black Swamp, which stretched from Fort Wayne to Toledo, Ohio and was subjected to massive drainage projects in the 1800s. The drainage work facilitated the pervasive conversion of the landscape to agricultural land. Prior to drainage efforts, the Maumee River's watershed was basically one large forested wetland with interspersed marshes. The ditches that drained the Great Black Swamp are conduits for fast drainage and provide little flood retention and little ability to filter/retain pollutants. The St. Joseph-Bear Creek Watershed Management Plan (15 August 2007) reiterated this observation: "Most of the streams and ditches in the watershed have been channelized, deepened, straightened, and/or dredged at some time over the last 150 years to support agriculture and construction of roads and cities. These practices impact the capacity of the stream to support aquatic life, filter out sediments and chemicals, and control flow". The Lower St. Joseph-Bear Creek Watershed Management Plan states: "The Lower St. Joseph and Bear Creek sub-watersheds comprise the southeastern portion of the St. Joseph River Watershed and include the urban areas of Fort Wayne and Leo-Cedarville as well as rural residential and agricultural lands. The land of these watersheds lies in two Indiana counties, Allen and DeKalb. Together with the Lower and Upper Cedar, these two sub-watersheds lie directly upstream of the City of Fort Wayne. They have the greatest impact on the quality of Fort Wayne's source water, both by virtue of their proximity to the city and by the volume of water carried by the streams and the river." The subject wetlands and tributary along with the Conrad Branch of the Alex Warner Drain are just upstream of Ft. Wayne's municipal water source on the St. Joseph River—impacts to these wetlands will increase turbidity in the St. Joseph River and add cost to Ft. Wayne's already-costly efforts (per Lower St. Joseph-Bear Creek Watershed Management Plan, some $300,000 annually) to remove turbidity from the water before they filter sediments out of their municipal water. The Lower St. Joseph-Bear Creek Watershed Management Plan noted that construction-related erosion is a major contributor to the St. Joseph River's turbidity. The subject wetlands filter sediments that would otherwise flow into Conrad Branch of the Alex Warner Drain and become part of the St. Joseph River and Maumme River sediment load. The remaining wetlands in the Lower St. Joseph River watershed, including the subject wetlands and tributary, play a significant role in mitigating effects on the biological, chemical, and physical integrity of the St. Joseph and Maumee Rivers. The Maumee River is flood prone--a large scale Corps flood control project is located in Fort Wayne, Indiana. Impacts to the remaining wetlands in the upper Maumee River's watershed, especially in the Fort Wayne area, will serve to reduce the effectiveness of the existing as well as future Corps flood control projects in Fort Wayne. The lower reaches of the Maumee River (in Ohio) have been designated a Great Lakes Area of Concern (AOC) and are subject to a Remedial Action Plan (RAP). In an effort to clean up the most polluted areas in the Great Lakes, the United States and Canada, in Annex 2 of the Great Lakes Water Quality Agreement, committed to cooperate with State and Provincial Governments to ensure that RAPs are developed and implemented for all designated AOCs in the Great Lakes basin. Limiting pollutants of any type in the upstream reaches of the Maumee River assists in the realization of the goals of the RAP for the Maumee River AOC. The Lower St. Joseph-Bear Creek Watershed Management Plan noted that flash flooding along streams in the Lower St. Joseph River watershed, which is largely urban Ft. Wayne, is "occasionally a problem." As stated above, the subject wetlands and tributary will store and slowly release potential flood waters to the St. Joseph and Maumee Rivers. The lower St. Joseph River is a 303(d) impaired water with respect to E. coli levels (monitored by the IDEM). The data suggest bacterial levels are highest following heavy precipitation events (per the August 15, 2007 Lower St. Joseph –Bear Creek Indiana Watershed Management Plan).

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: **50** linear feet **2** 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: **Section III continues off-site and is part of a larger wetland system that abuts the Conrad Branch of the Alex Warner Ditch. The Conrad Branch of the Alex Warner Ditch flows into the Alex Warner Ditch, both of which are identified as a perminant blue line streams on the USGS Topo Map; a blue line stream on the USDA Web Soil Survey Map. These are considered a perennial waterway that flows year-round (a RPW) which flows directly into the St. Joseph River (a RPW), which then flows into the Maumee River (a Section 10 TNW). See Section IV.B for additional information.**

☐ 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: **0.56** 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: **0.01** 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: .

[8] See Footnote # 3.
[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
[10] Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.*

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .
☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):
☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
☐ Other: (explain, if not covered above): .

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: 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: 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: Wetland Delineation Report, prepared by Three Rivers Wetland Consulting dated March 5, 2021.
☒ 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 Cedarville (IN).
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Web Soil Survey, Allen County - Indiana.
☒ National wetlands inventory map(s). Cite name: 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): Site photos by consultant (5/13/2021); Aerial photograph 1938, 1957, 1964, 1972, 1986, 1995, 1999, 2003, 2006, 2008, 2009, 2012, 2015, 2018 (Google Earth, see delineation report); 2018 Indiana Ortho, 2005 Indiana Ortho .
or ☐ Other (Name & Date): .
☐ Previous determination(s). File no. and date of response letter: .
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☒ Other information (please specify): .
Report titled Lower St. Joseph-Bear Creek Watershed Management Plan, March 2008, St. Joseph River Watershed Management Plan, dated February 2006, Cedar Creek Watershed Management Plan, September 2005, Allen County Indiana GIS website, 1956 & 1963 1:24000 USGS Cedarville Quad, and 1908 Soil Map.

B. ADDITIONAL COMMENTS TO SUPPORT JD: Section I and Section II drain into Section III. Section III was observed continuing off-site during the June 22, 2021 site visit and abuts on off-site RPW called the Conrad Branch of the Alex Warner Ditch. Observations that Section III abuts the RPW is supported by the applicable maps and remote tools. The NRCS Soil Survey shows hydric soils continuing off-site to the east abutting the Conrad Branch of the Alex Warner Ditch, The NWI map also supports the wetland continuing to the east, with the mapped wetland poloygon indicating that Section III abuts the Conrad Branch of the Alex Warner Ditch. Wetland signatures can be observed in the following aerial photos: 1938, 1964, 1974, 1979, 1986, 1994, 1995, Indiana DOQQ 1998, 1999, 2002, 2003, 2005, 2006, 2008, 2009, 2012, 2015, 2018 and in the Indiana NAIP aerials from 2007, 2008, 2018 all of which also support that the larger wetland complex that Section III is a part of continues offsite and abuts the Conrad Branch of the Alex Warner Ditch. In addition, the following aerial photos, April 9, 10, & 24 2017, November 7, 2017 and May 5, 2020, wetland signatures are evidient which show the larger wetland complex that Section III is a part of abutting the Conrad Branch of the Alex Warner Ditch.

The Conrad Branch of the Alex Warner Ditch has been subject to varying degrees of alteration when reviewing the available historical aerial imagery and applicable resource maps. The tributary is mapped in a 1908 soil map and is depicted in a 1963 1:24000 USGS map. In the 1908 soil map, the tributary continues north-west and on the 1963 USGS topo map, it stops approximately 950'west of Amstutz Road. In a 1938 aerial photo, Conrad Branch is evident continuing to the north-west, connecting to an undisturbed wetland located north-west of the review area. The channel of Conrad Branch was not evident in a 1957 aerial, but is evident in a 1964 aerial, however the channel is in a different location when compared to the 1938 aerial. The channel is also evident in photos from 1974 and one dated November 1, 1979. Beginning with the 1994 aerial, the channel has maintained its current location. This is based on comparing the channel location observed in the 1994 aerial with aerials from 1995, Indiana DOQQ 1998, 1999, 2002, 2003, 2005, 2006, 2008, 2009, 2012, 2015, 2018 and in the Indiana NAIP aerials from 2007, 2008, 2018, along with aerial photos, April 9, 10, & 24 2017, November 7, 2017 and May 5, 2020. Water can also be observed in all the aerial photos referenced in the previous sentence. The observation of water within the channel, supports that the Conrad Branch of the Alex Warner Ditch has a relatively permanent flow of water that is perennial and not seasonal. The Conrad Branch of the Alex Warner Ditch is also depicted on the 1:24000 USGS Cedarville Quad, along with USGS Quad Maps from 1956 and 1963. All three quad maps depict the Conrad Branch of the Alex Warner Ditch as a blue line, which supports, perennial, relatively permanent flow. The Conrad Branch is also on National Hydrography Dataset and the NRCS Soil Survey for Allen County, both of which support that the Conrad Branch of the Alex Warner Ditch has a relatively permanent flow regime.

The Alex Warner Ditch which the Conrad Branch of the Alex Warner Ditch flows into, water can be observed in the following aerial photos: 1995, Indiana DOQQ 1998, 1999, 2002, 2003, 2005, 2006, 2008, 2009, 2012, 2015, 2018 and in the Indiana NAIP aerials from 2007, 2008, 2018, along with aerial photos, April 9, 10, & 24 2017, November 7, 2017 and May 5, 2020. The observation of water within the channel, supports that the Alex Warner Ditch has a relatively permanent flow of water that is perennial, not seasonal. The Alex Warner Ditch is also depicted on the 1:24000 USGS Cedarville Quad, along with USGS Quad Maps from 1956 and 1963. All three quad maps depict the Alex Warner Ditch as a blue line, which indicates relatively permanent flow. The Alex Warner Ditch is also on the National Hydrography Dataset and the NRCS Soil Survey for Allen County, both of which support that the Alex Warner Ditch has a relatively permanent flow regime. The Conrad Branch of the Alex Warner Ditch flows into the Alex Warner Ditch, which discharges into the St. Joseph River, then the Maumee River, a Section 10 Water. .