

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): January 04, 2016

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Jacksonville District, SAJ-2015-00974-City of Lakeland/North Wabash Ave Extension

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: FL

County/parish/borough: Polk City: Lakeland

Center coordinates of site (lat/long in degree decimal format): Lat. 28.062326° **N**, Long. 81.990126° **W**.

Universal Transverse Mercator:

Name of nearest waterbody: Unnamed stream

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Hillsborough River

Name of watershed or Hydrologic Unit Code (HUC): 03100205-Peace-Tampa Bay

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: September 20, 2015

Field Determination. Date(s): May 18, 2015

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 waters² (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 0.21 acres.

Wetlands: 1.34 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: **There are two wetlands within the review area (WL 1 and WL 2) that were reviewed and determined to be isolated and non-jurisdictional. WL 1 is 0.85 acre and WL 2 is 0.19 acre.**

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW

Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": .

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

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

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

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

If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

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

(i) General Area Conditions:

Watershed size: 656 square miles

Drainage area: 20783 acres

Average annual rainfall: 53 inches

Average annual snowfall: 0 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through 2 tributaries before entering TNW.

Project waters are 20-25 river miles from TNW.

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

Project waters are 15-20 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: NA.

Identify flow route to TNW⁵: The review area contains an unnamed stream which flows northeast to southwest into another unnamed stream which also flows through the review area. The convergence point for these two streams is under

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.

the intersection of N Wabash Ave and 10th St W. This stream flows northwest and eventually into Itchepackesassa Creek, which then flows into Blackwater Creek, and then into the Hillsborough River. The review area also contains ditches on either side of N Wabash Ave (Ditch 1 and Ditch 2) which hydrologically connect to the stream flowing northwest away from the review area.

Tributary stream order, if known: .

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

Tributary is: Natural

Artificial (man-made). Explain: The on-site ditches adjacent to N Wabash Ave were man-made.

They flow into the stream flowing northwest away from the review area..

Manipulated (man-altered). Explain: The streams have been culverted for the N Wabash Ave and W 10th St road crossings. The stream which flows northwest appears to have been dredged and straightened within the review area several decades ago.

Tributary properties with respect to top of bank (estimate):

Average width: NW flowing stream: 10 feet; SW flowing stream: 2-3 feet; ditches: 4 feet

Average depth: 1-3 feet

Average side slopes: **2:1**.

Primary tributary substrate composition (check all that apply):

Silts

Sands

Concrete

Cobbles

Gravel

Muck

Bedrock

Vegetation. Type/% cover:

Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Tributaries in stable condition within review area.

Presence of run/riffle/pool complexes. Explain: NA.

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: Steady flow in wet season, lighter flow during dry season. The tributaries had flowing water during the May 18, 2015 site visit.

Other information on duration and volume: The streams are surrounded by floodplain wetlands and flow at least seasonally. The National Hydrographic Dataset (NHD) categorizes the SW flowing stream as intermittent, and the NW flowing stream as intermittent south of W 10th St, and perennial north of W 10th St. The ditches receive runoff from N Wabash Ave and are adjacent to wetlands and flow into the NW flowing stream. They likely have standing water most of the year. All tributaries within the review area had standing or flowing water during the May 18, 2015 site visit.

Surface flow is: **Discrete**. Characteristics: The streams flow within their channels and interact with the adjacent floodplains. They are confined to culverts under N Wabash Ave and W 10th Ave. The ditches, which have a straight channel, receive road runoff and interact with the adjacent wetlands, and flow into the streams.

Subsurface flow: **Unknown**. Explain findings: Subsurface flow was not investigated, but likely occurs.

Dye (or other) test performed: .

Tributary has (check all that apply):

Bed and banks

OHWM⁶ (check all indicators that apply):

clear, natural line impressed on the bank

the presence of litter and debris

changes in the character of soil

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: The streams converge and flow through culverts under N Wabash Ave and

10th St W. .

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷Ibid.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> High Tide Line indicated by: | <input type="checkbox"/> Mean High Water Mark indicated by: |
| <input type="checkbox"/> oil or scum line along shore objects | <input type="checkbox"/> survey to available datum; |
| <input type="checkbox"/> fine shell or debris deposits (foreshore) | <input type="checkbox"/> physical markings; |
| <input type="checkbox"/> physical markings/characteristics | <input type="checkbox"/> vegetation lines/changes in vegetation types. |
| <input type="checkbox"/> tidal gauges | |
| <input type="checkbox"/> other (list): | |

(iii) Chemical Characteristics:

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

Explain: Water color was clear or tannic. Water quality appeared to be good.

Identify specific pollutants, if known: The water was not tested for specific pollutants; however, the tributaries could conceivably contain oils, pesticides or other chemicals based on residential, industrial and agricultural uses in the watershed.

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

Riparian corridor. Characteristics (type, average width): Forested corridor along the streams. The corridor is 500+ feet wide along the NW flowing stream and approximately 150 feet wide along the SW flowing stream in the vicinity of the review area. The portion of the streams within the review area is small and is mostly culverted.

Wetland fringe. Characteristics: Adjacent forested wetlands consisting of red maple, sweetgum, laurel oak, cabbage palm.

Habitat for:

Federally Listed species. Explain findings: Potential foraging habitat for wood storks.

Fish/spawn areas. Explain findings: The streams likely provide fish habitat..

Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. Explain findings: The tributaries and their riparian corridors may support fish, reptiles, amphibians, wading birds, perching birds, small mammals and aquatic macroinvertebrates.

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: 1.34 acres

Wetland type. Explain: There are 1.27 acres of palustrine forested wetlands and 0.07 acre of palustrine emergent wetlands within the review area. The emergent wetlands are nearest the roads where the forested wetlands were cleared and ditched..

Wetland quality. Explain: The wetlands are generally good quality. The wetland edges nearest the roads have encroachment of exotic vegetation and experience other secondary effects.

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

(b) General Flow Relationship with Non-TNW:

Flow is: **Perennial flow**. Explain: The streams are surrounded by floodplain wetlands and flow at least seasonally. The NHD categorizes the SW flowing stream as intermittent, and the NW flowing stream as perennial from the intersection of N Wabash Ave and W 10th St flowing NW. The stream is categorized as intermittent south of the intersection. The ditches receive runoff from N Wabash Ave and are adjacent to wetlands and flow into the NW flowing stream. They likely have standing water most of the year. All tributaries within the review area had standing or flowing water during the May 18, 2015 site visit.

Surface flow is: **Overland sheetflow**

Characteristics: The adjacent wetlands form the stream floodplains.

Subsurface flow: **Unknown**. Explain findings: Subsurface flow was not investigated, but likely occurs.

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 **20-25** river miles from TNW.

Project waters are **15-20** 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: No notable water quality issues.

Identify specific pollutants, if known: The wetlands were not tested for specific pollutants; however, they could conceivably contain oils, pesticides or other chemicals based on residential, industrial and agricultural uses in the watershed. Some wetland areas contained old tires and other garbage.

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

Riparian buffer. Characteristics (type, average width): Forested corridor along the streams. The corridor is 500+ feet wide along the NW flowing stream and approximately 150 feet wide along the SW flowing stream in the vicinity of the review area.

Vegetation type/percent cover. Explain: Adjacent forested wetlands consisting of red maple, sweetgum, laurel oak, cabbage palm.

Habitat for:

Federally Listed species. Explain findings: Potential wood stork nesting and/or foraging habitat.

Fish/spawn areas. Explain findings:

Other environmentally-sensitive species. Explain findings: .

Aquatic/wildlife diversity. Explain findings: The tributaries and the adjacent forested wetlands may support fish, reptiles, amphibians, wading birds, perching birds, small mammals and aquatic macroinvertebrates.

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

All wetland(s) being considered in the cumulative analysis: **11**

Approximately (134.4) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
Y	3.3	Y	0.5
Y	1.1	Y	50
Y	35	Y	7.3
Y	8	Y	0.1
Y	11.6	Y	7.5
Y	10		

Summarize overall biological, chemical and physical functions being performed: Storage of flood waters; reduction of downstream peak discharge and volume; recharge of aquifers; maintenance of seasonal/baseflows; maintenance of groundwater supplies; sediment and nutrient removal; provide breeding grounds and wildlife habitat (e.g. feeding, nesting, spawning, rearing of young); support diverse communities of benthic invertebrates, a major food source for vertebrates.

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:
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:
4. **Significant Nexus Determination:** The Eleventh Circuit has concluded that the Kennedy standard is the sole method of determining CWA jurisdiction in that Circuit (*United States v. McWane, Inc., et al.*, 505 F.3d 1208 [11th Cir. 2007]). Therefore, unless the aquatic resources are traditional navigable waters or wetlands adjacent to traditional navigable waters, the Corps needs to conduct a significant nexus determination on all other waters in order to determine jurisdiction under the CWA. The Corps has determined that for this review, the RPWs and directly abutting wetlands have more than an insubstantial or speculative effect on the physical, chemical, and biological integrity of the downstream TNWs, as described below.
- 5.
6. The following represents the significant nexus finding for the RPWs (tributaries):
7. **PHYSICAL:** The streams and ditches receive rainfall and stormwater runoff from a large area and transport this water and sediment load downstream. Flows from the creek affect the duration, frequency and volume of flow into Itchepackesassa Creek, Blackwater Creek and the Hillsborough River.

8. **CHEMICAL:** The tributaries have the capacity to transfer nutrients and organic carbon that supports downstream food webs, as well as transfer potential pollutants to the downstream TNW, which could negatively affect aquatic resources.
9. **BIOLOGICAL:** The tributaries are important biologically as they provide habitat for reptiles, amphibians, fish, birds and other aquatic species, including species which move between aquatic and upland environments during their life cycles. The biological functions provided by the surface waters addressed in this JD are expected to be exported downstream to, and provide benefits to, the downstream TNW.
- 10.
11. The following represents the significant nexus finding for the wetlands adjacent to the RPWs:
12. **PHYSICAL:** The wetlands perform important flow maintenance functions including storage of flood waters and maintenance of groundwater supplies, and therefore directly affect the duration, frequency and volume of flow in the tributary and the downstream TNW. The wetlands provide a means of slowing water's velocity and reducing the amount of sediments entering downstream waters.
13. **CHEMICAL:** Adjacent wetlands improve water quality by removing sediment and nutrients and other pollutants that would otherwise reach the downstream TNW and have a negative effect on aquatic resources.
14. **BIOLOGICAL:** The wetlands are important biologically since a substantial amount of the historical wetland coverage in the watershed has been altered for residential and commercial development, mining and agriculture. They provide breeding grounds for species that cannot reproduce in faster-moving water and move between wetlands and uplands over their lifecycle, and provide habitat for a variety of species. The biological functions provided by the wetlands and surface waters addressed in this JD are expected to also be exported downstream to, and provide benefits to, the downstream TNW.

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: The NHD categorizes the NW flowing stream as perennial from the intersection of N Wabash Ave and W 10th St flowing NW. The stream is categorized as intermittent south of the intersection. The ditches receive runoff from N Wabash Ave and are adjacent to wetlands and flow into the NW flowing stream. They likely have standing water most of the year. All tributaries within the review area had standing or flowing water during the May 18, 2015 site visit.
 - 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: The NHD categorizes the SW flowing stream as intermittent, and the NW flowing stream as perennial from the intersection of N Wabash Ave and W 10th St flowing NW. The stream is categorized as intermittent south of the intersection. The ditches receive runoff from N Wabash Ave and are adjacent to wetlands and flow into the NW flowing stream. They likely have standing water most of the year. All tributaries within the review area had standing or flowing water during the May 18, 2015 site visit.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: 1080 linear feet width (ft).
- Other non-wetland waters: acres.

Identify type(s) of waters: .

3. **Non-RPWs⁸ 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

⁸See Footnote # 3.

directly abutting an RPW: **The subject wetlands form part of the stream's floodplain and are contiguous to the RPW.**

- 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: **The subject wetlands form part of the stream's floodplain and are contiguous to the RPW.**

Provide acreage estimates for jurisdictional wetlands in the review area: **1.34** 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 jurisdictional. 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).
 Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: **There are two wetlands within the review area (WL 1 and WL 2) that were reviewed and determined to be isolated and non-jurisdictional. WL 1 is 0.85 acre and WL 2 is 0.19 acre. Wetland 1 is surrounded by uplands and has no connection to waters of the U.S.**

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*.

Wetland 2 is surrounded by an upland berm and has no connection to waters of the U.S. No piped or surface water connections were found in the field or are evident in any mapping tools.

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: WL 1 is 0.85 acre and WL 2 is 0.19 acres.

SECTION IV: DATA SOURCES.

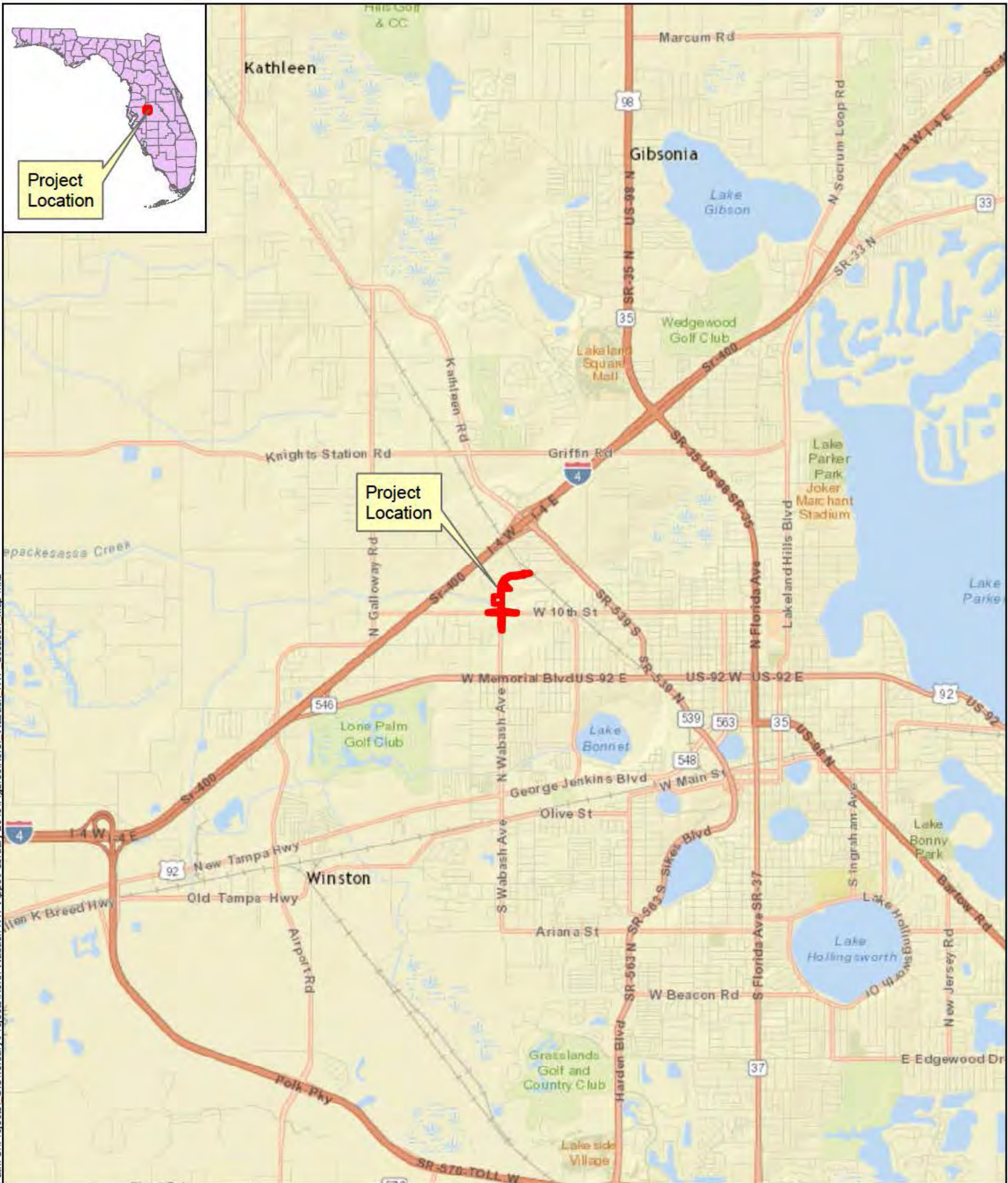
A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Wetland maps and aerials.
 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: <http://viewer.nationalmap.gov>.
 USGS NHD data.
 USGS 8 and 12 digit HUC maps.
 U.S. Geological Survey map(s). Cite scale & quad name:
 USDA Natural Resources Conservation Service Soil Survey.
Citation: <http://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>.
 National wetlands inventory map(s). Cite name: <http://www.fws.gov/wetlands/data/mapper.html>.
 State/Local wetland inventory map(s):
 FEMA/FIRM maps:
 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
 Photographs: Aerial (Name & Date): Google Earth (2015) and aerials provided by the applicant.
or Other (Name & Date): Photos taken during the May 18, 2015 site visit.
 Previous determination(s). File no. and date of response letter:
 Applicable/supporting case law:
 Applicable/supporting scientific literature:
 Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetlands 1 and 2 on the corresponding map are isolated; wetlands 4, 5, 6, 7 & 8 directly abut RPWs.



Project Location



Project Location

Figure 1

Location Map

North Wabash Avenue Extension

Polk County, FL

Legend

 Project Area

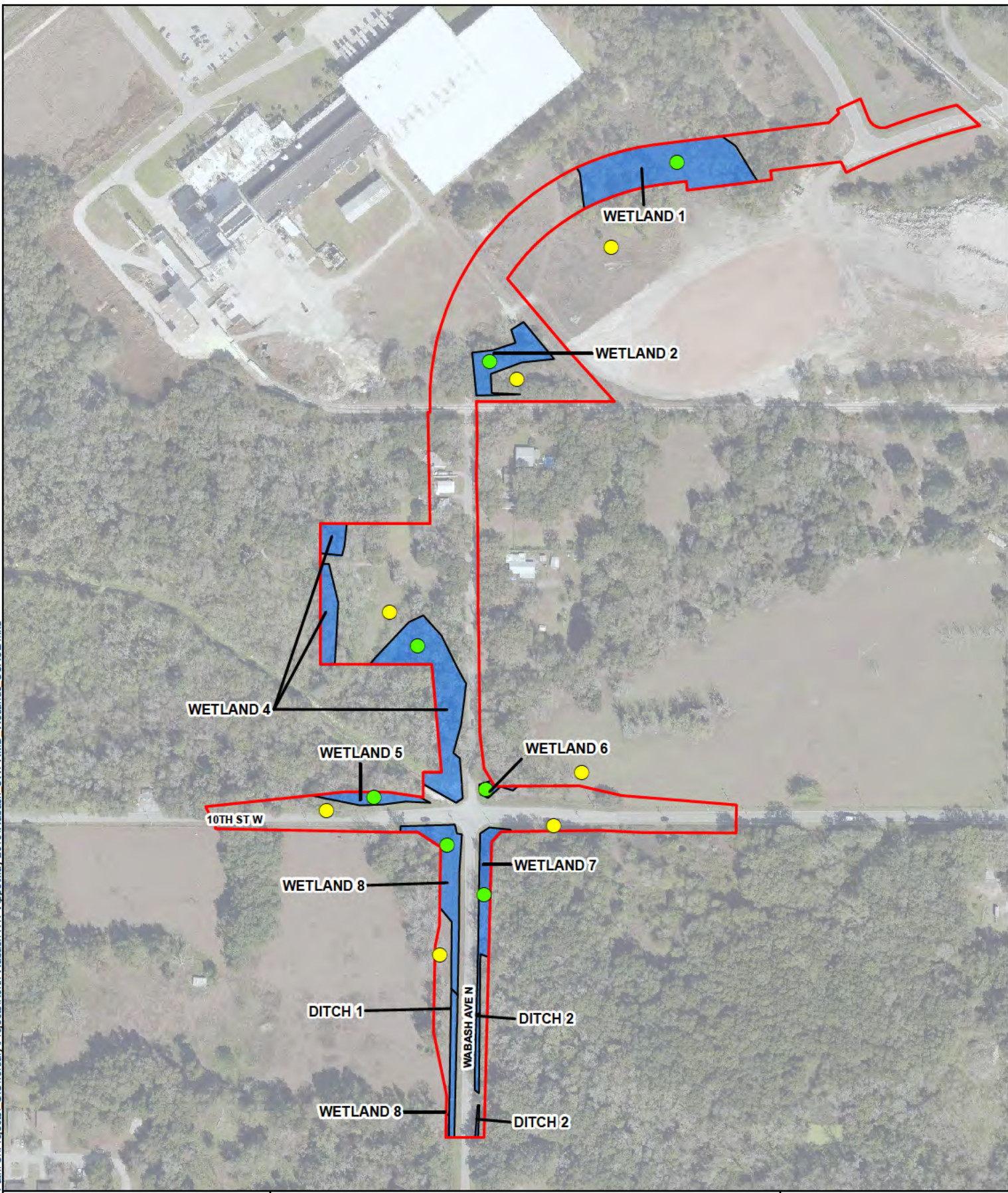
Source: Streetmap- ESRI, 2015



0 0.5 1 Miles

Path: S:\Projects\GIS\Tertiary\Projects\North Wabash NTP\Apost\February 2015\Figures\North Wabash NTP Location Map.mxd

Path: S:\Projects\GIS\Tertiary\Projects\North Wabash NTP\Apos\May 2015\Wabash SWFWMD Wetlands USACE.mxd



Legend

- Project Area
- Wetlands and Surface Waters
- Upland Sampling Point
- Wetland Sampling Point

Sources:
Wetlands- URS, 2013
Imagery- FDOT, 2014

Wetland and Upland Sampling Location Map
North Wabash Avenue Extension
Polk County, FL

N

0 150 300
 Feet

NOTES: Data available from U.S. Geological Survey, National Geospatial Program.

