



US Army Corps
of Engineers
St Paul District

APPLICANT: Wayne Dempze
Cranberry Company,
LLC

Public Notice

ISSUED: October 16, 2015
EXPIRES: November 15, 2015

REFER TO: MVP-2010-00633-KDZ **SECTION:** 404 - Clean Water Act

1. APPLICATION FOR PERMIT TO retain fill material discharged into approximately 7.05 acres of wetlands adjacent to an unnamed tributary to Hemlock Creek for the expansion of an existing cranberry marsh. This project may also include discharges of fill material for activities associated with the restoration of 5.58 acres of wetlands and compensatory mitigation site construction.

2. SPECIFIC INFORMATION.

APPLICANT'S ADDRESS: Wayne Dempze Cranberry Company, LLC
4917 County Road D
Vesper, Wisconsin 54489

AGENT: Mr. Brian Kronstedt **AGENT'S ADDRESS:** Quest Civil Engineers, LLC
2811 Street South, Suite 8
Wisconsin Rapids, Wisconsin 54489

PROJECT LOCATION: The project is located in Section 35, T.23N., R.4E., Wood County, Wisconsin.

DESCRIPTION OF PROJECT: Wayne Dempze Cranberry Company, LLC (Dempze) has applied for an-after-the fact permit to retain fill material discharged into 7.05 acres wetlands for the construction of four cranberry beds, water conveyance ditches, and a portion of open water reservoir associated with the expansion of an existing cranberry marsh. The overall purpose of the project was to expand the existing cranberry marsh to increase fruit production. The Corps conducted a site investigation in 2010 and determined that initial work performed on the property resulted in approximately 12.63 acres of unauthorized wetland impacts from the construction of five cranberry beds, a portion of open water reservoir, water conveyance ditches, and related earth-moving activities. The initial unauthorized work was subsequently referred to the U.S. Environmental Protection Agency (USEPA) for elevated Federal enforcement.

Under the terms of the USEPA Consent Order and Final Agreement (CAFO) issued pursuant to Section 309(a) of the Clean Water Act, Wayne Dempze Cranberry Company, LLC agreed to restore approximately 5.58 acres of wetlands by removing one cranberry bed and other related fill materials placed into wetlands without a permit. In addition, the CAFO required Dempze to apply for an after-the-fact permit to retain the 7.05 acres of unauthorized fill material placed in wetlands for the remaining components of the project.

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ALTERNATIVES CONSIDERED: The applicant evaluated a number of on-site and off-site configurations to situate the proposed project; however, the current location was selected by the applicant as the only practicable alternative to expand existing cranberry marsh infrastructure. The following project alternatives were considered by the applicant for the current project location:

Alternative 1- Restore 12.63 Acres of Wetland Impacts (Full Restoration). The applicant states this alternative would not be practicable to accomplish the intended overall project purpose. This alternative is not consistent with the terms of the CAFO between Dempze and USEPA.

Alternative 2- Retain 12.63 Acres of Wetland Fill (Retain Entire Project as Constructed). This alternative would consist of retaining 12.63 acres of unauthorized fill material placed in wetlands for the construction of five cranberry beds, dikes, water conveyance ditches, a portion of the open water reservoir, and related earth-moving activities. This alternative was dismissed by the applicant due to subsequent compensatory mitigation requirements and because it is more damaging than alternative 3 described below. Further, this alternative is not consistent with the terms of the CAFO between Dempze and USEPA.

Alternative 3-Restore 5.58 acres of Wetland Impacts and Retain 7.05 acres of Wetland Fill. This represents the applicants preferred alternative and would consist of expanding the existing cranberry marsh by adding four new cranberry beds, dikes, water conveyance ditches, and a portion of open water reservoir to accomplish the intended project purpose. This alternative also results in minimizing wetland impacts from the project by removing one cranberry bed and other fill materials placed in wetlands and restoring 5.58 acre of impacted wetlands to pre-project conditions. This alternative would be consistent with the terms of the CAFO between Dempze and USEPA.

QUANTITY, TYPE, AND AREA OF FILL: Dredged and fill material (i.e. soil, rock, sand) was placed into wetlands for the construction of cranberry beds, dikes, one open water reservoir, and water conveyance ditches. The proposed project would result in 7.05 acres of permanent impacts to the following wetland plant communities; 2.30 acres fresh wet meadow (degraded) and 4.75 acres hardwood swamp.

VEGETATION IN AFFECTED AREA: The affected area includes a mixture of agricultural lands comprised of corn and soybeans, scattered woodlots, and wetlands. The wetland plant communities contain reed canary grass, sedge species, meadowsweet, goldenrods, sensitive fern, dogwood, quaking aspen, box elder, red maple, and other typically associated species.

SOURCE OF FILL MATERIAL: Fill material was obtained during construction of the open water reservoir and from existing commercial sources.

SURROUNDING LAND USE: The land use along the project corridor is predominantly rural with scattered residences, forest lands, wetlands, and agricultural lands.

THE FOLLOWING POTENTIALLY TOXIC MATERIALS COULD BE USED AT THE PROJECT SITE: Fuels, hydraulic fluid, lubricants, coolant and other fluids commonly used by

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construction and agricultural equipment would be expected to be present for construction of the project.

THE FOLLOWING PRECAUTIONS TO PROTECT WATER QUALITY HAVE BEEN DESCRIBED BY THE APPLICANT: The applicant would utilize standard construction best management practices, including temporary and permanent erosion control measures to contain disturbed soils at the work site.

MITIGATION: The applicant has proposed to compensate the temporal and permanent loss of wetland functions from this project through permittee responsible mitigation. The permittee responsible mitigation would consist of creating 4.61 acres of wet meadow wetlands in uplands, rehabilitating 11.36 acres of existing wetlands dominated by reed canary grass, enhancing 3.28 acres of existing degraded wetlands, and establishing 1.42 acres of native grass/forb upland buffer. The permittee responsible mitigation is proposed by the applicant to generate a total of 13.07 acres of wetland credit to offset the 7.05 acres of wetland impacts. The mitigation sites would be monitored for a period of five years to document success/failure with performance standards and also protected into perpetuity by a conservation easement.

3. REPLIES/COMMENTS.

Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant.

Replies may be addressed to Regulatory Branch, St. Paul District, Corps of Engineers, 1314 Contractor's Blvd., Plover, WI 54467.

Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Kyle Zibung at the Stevens Point (Plover) field office of the Corps, telephone number (651) 290 -5877.

To receive Public Notices by e-mail, go to: http://mvp-xtstp.mvp.usace.army.mil/list_server/ and add your information in the New Registration Box.

4. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT.

None were identified by the applicant or are known to exist in the permit area. However, Wood County is within the known or historic range of the following Federally-listed threatened (T) and endangered (E) species:

<u>Species</u>	<u>Habitat</u>
- Northern long-eared bat (T) (<i>Myotis septentrionalis</i>)	- Hibernates in caves and mines - swarming in surrounding wooded areas in autumn. During summer, roosts and forages in upland forests.

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- **Gray wolf** (E)
(*Canis lupus*) - Northern forested areas
- Karner blue butterfly** (E)
(*Lycaeides melissa samuelis*) - Prairie, oak savanna, and jack pine areas with wild lupine
- Whopping Crane** (Non-essential experimental population) - Wetlands and lakeshores
- Eastern massausauga** (Proposed as T)
(*Sistrurus catenatus*) - Forested wetlands and adjacent uplands

This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

5. JURISDICTION.

This application is being reviewed in accordance with current practices for documenting Corps jurisdiction under Section(s) 9 & 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act.

We have made a preliminary determination that the aquatic resources that would be impacted by the proposed project are subject to Corps of Engineers jurisdiction under Section(s) 9 & 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. If an approved jurisdictional determination is completed as part of the review process for this application, a copy will be posted on the St. Paul District web page at the following link:

<http://www.mvp.usace.army.mil/Missions/Regulatory.aspx>.

THE APPLICANT HAS STATED THAT THE FOLLOWING STATE, COUNTY, AND/OR LOCAL PERMITS HAVE BEEN APPLIED FOR/ISSUED: The applicant has applied for Section 401 Water Quality Certification from the Wisconsin Department of Natural Resources. No information concerning pending or approved local/county authorizations was provided by the applicant.

6. STATE SECTION 401 WATER QUALITY CERTIFICATION.

This Public Notice has been sent to the Wisconsin Department of Natural Resources and is considered by the District Engineer to constitute valid notification to that agency for Section 401 water quality certification. A permit will not be granted until the Wisconsin Department of Natural Resources has issued or waived Section 401 certification.

7. HISTORICAL/ARCHAEOLOGICAL.

This public notice is being sent to the National Park Service and the State Archaeologist for their comments. The Corps will review information on known cultural resources and/or historic properties within and adjacent to the project area. The Corps will also consider the potential effects of the project

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on any properties that have yet to be identified. If appropriate, the results of this review and the Corps' determination of effect will be coordinated with the State Historic Preservation Officer independent of this public notice. Any adverse effects on historic properties will be resolved prior to the Corps authorization, or approval, of the work in connection with this project.

8. PUBLIC HEARING REQUESTS.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

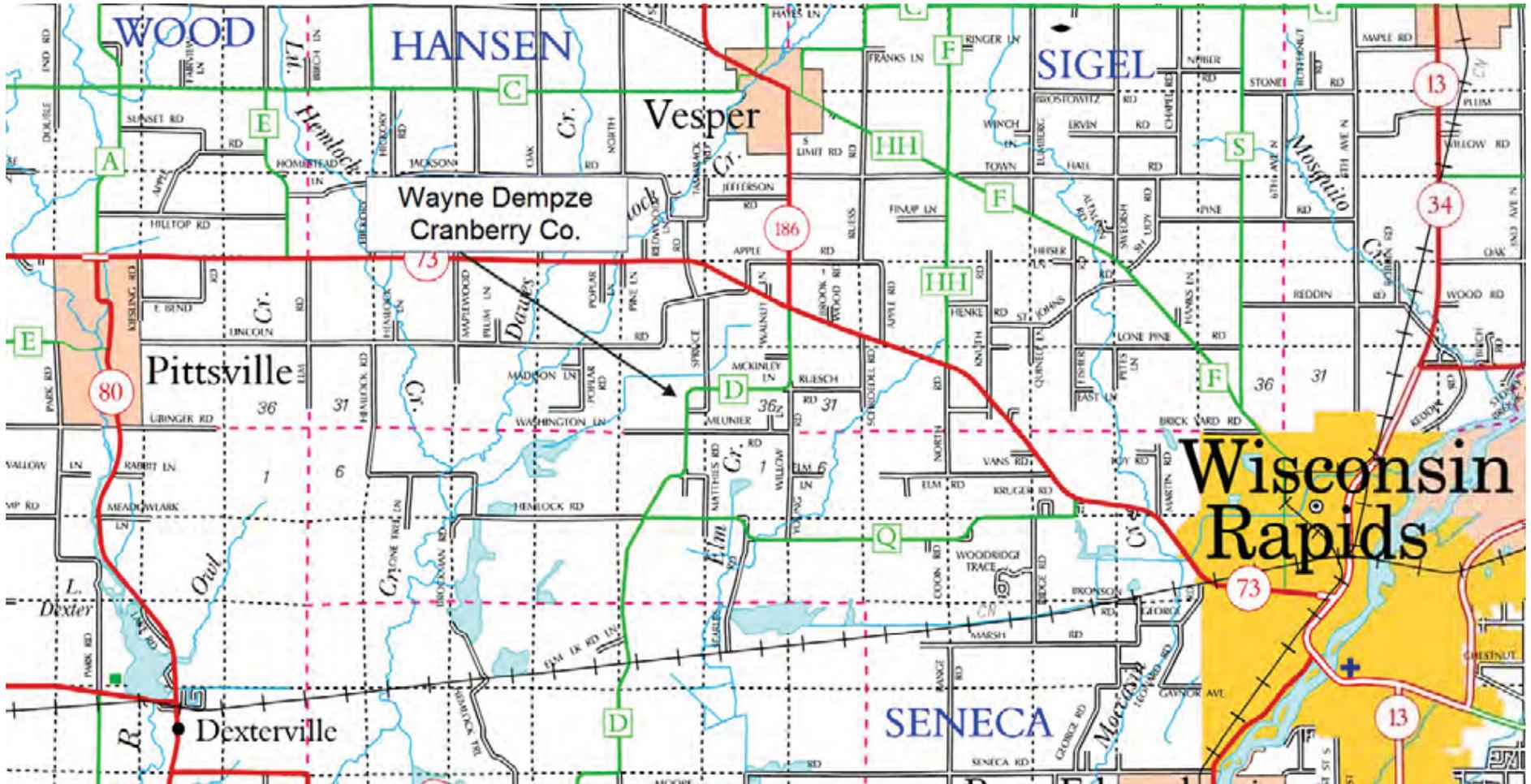
9. PUBLIC INTEREST REVIEW.

The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

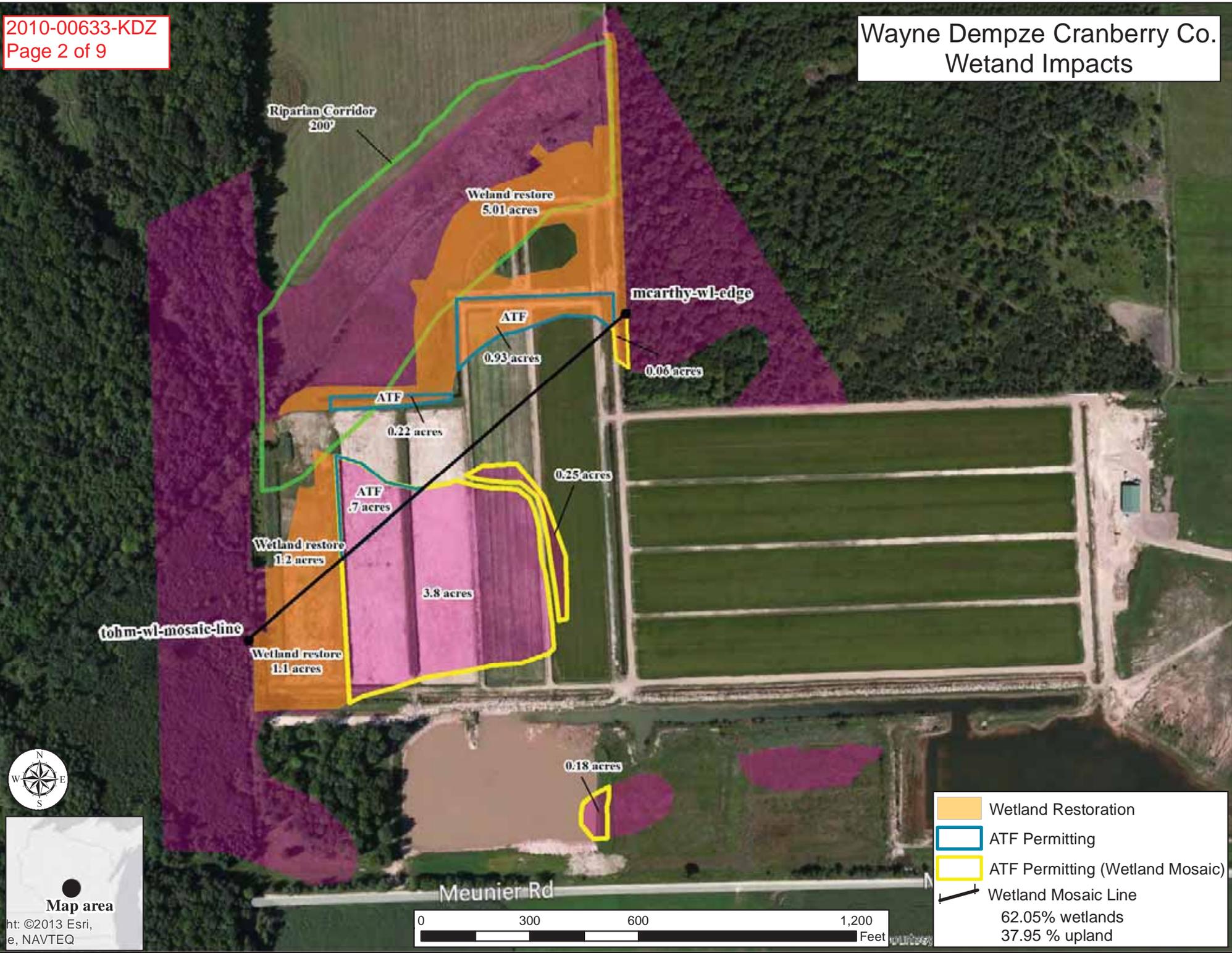
Rebecca M. Graser
Chief, Northeast Section

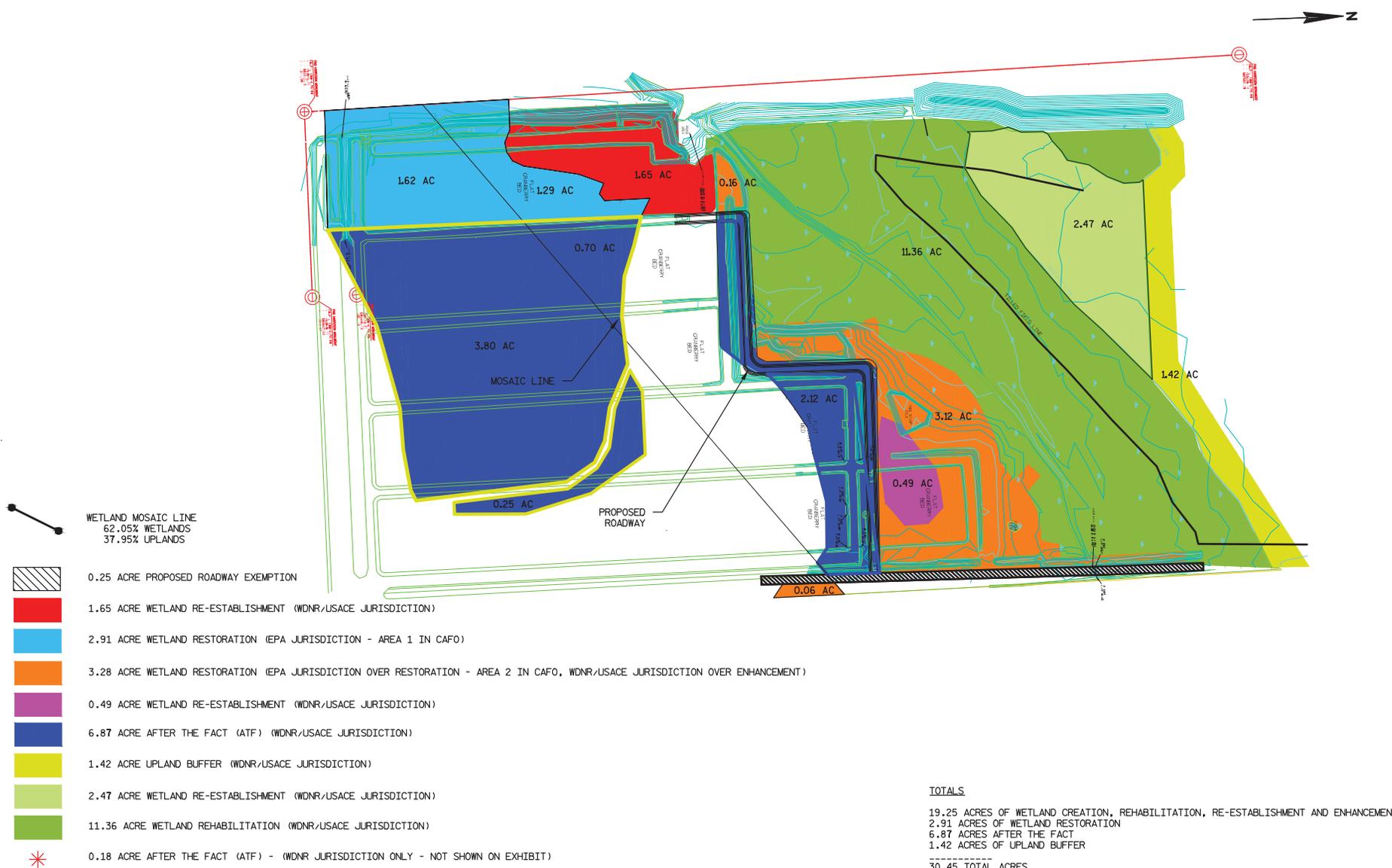
Enclosures



Attachment 1	Project Location Map	Wayne Dempze Cranberry, Co.	By: BWK Date: 7/17/15	Attach. 1	 320 W Grand Ave., Suite 302 Wisconsin Rapids, WI 54495 715-423-3525
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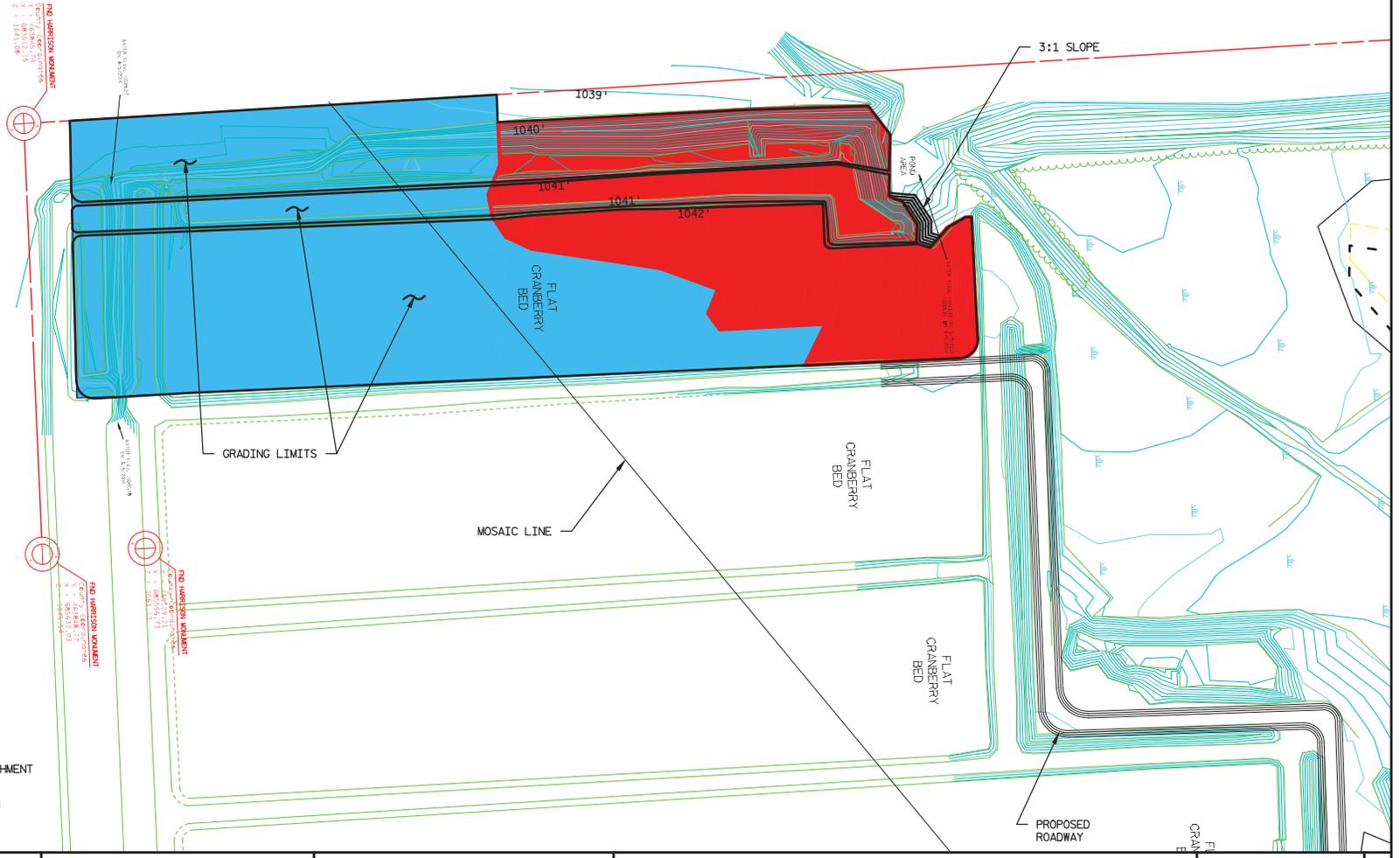
Wayne Dempze Cranberry Co. Wetland Impacts



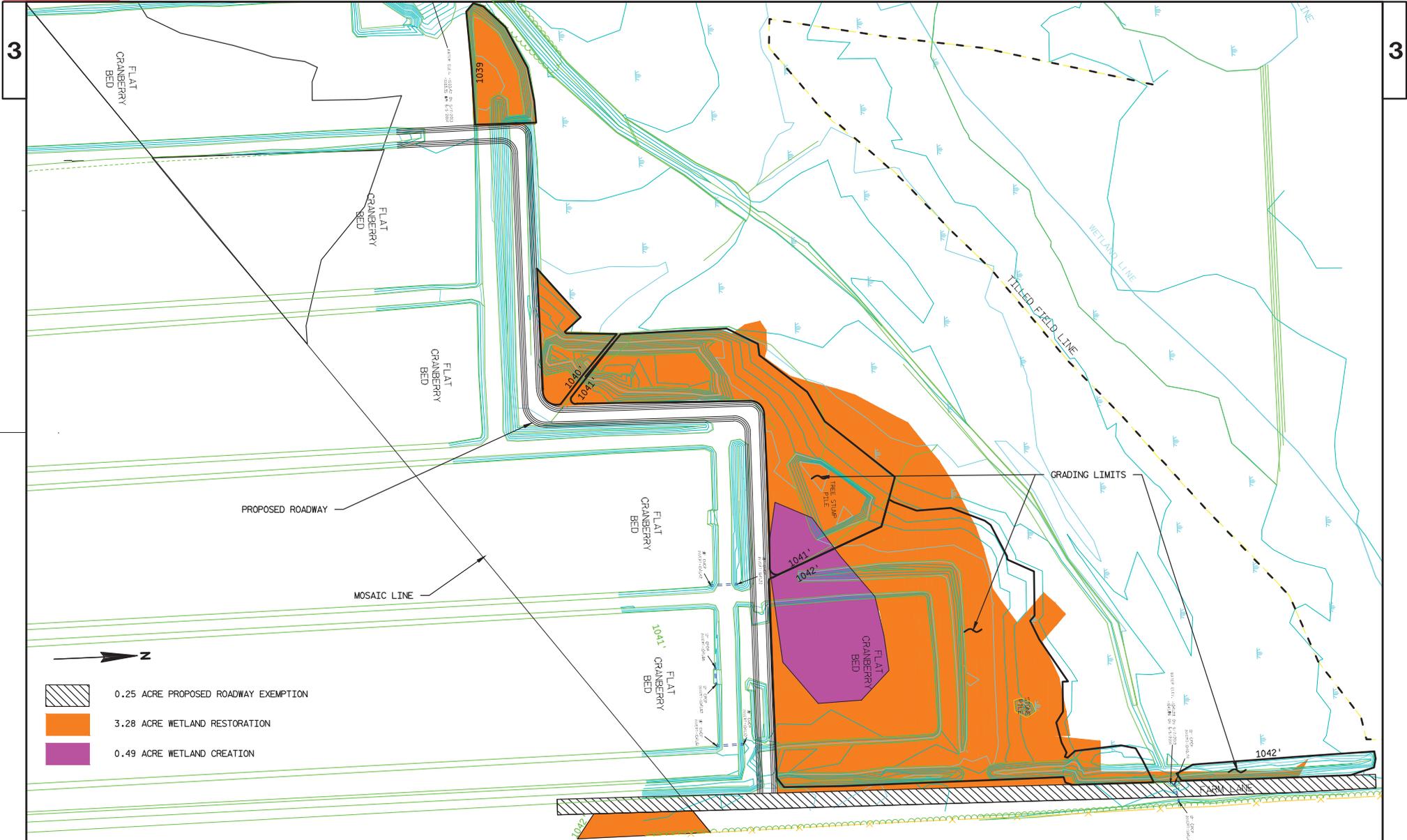


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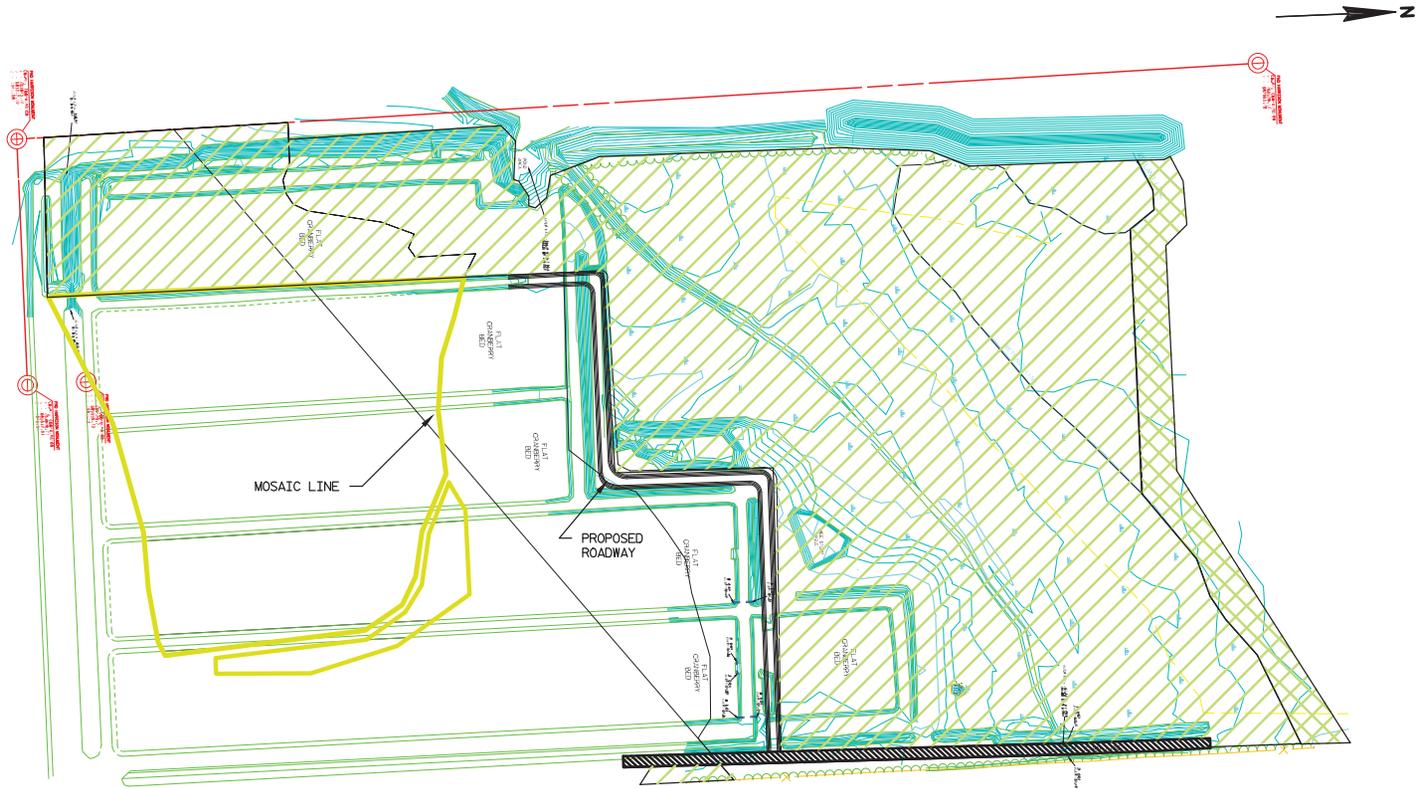
- 1.65 ACRE WETLAND RE-ESTABLISHMENT
- 2.91 ACRE WETLAND RESTORATION



-  0.25 ACRE PROPOSED ROADWAY EXEMPTION
-  3.28 ACRE WETLAND RESTORATION
-  0.49 ACRE WETLAND CREATION

4

4



-  0.25 ACRE PROPOSED ROADWAY EXEMPTION
-  MESIC NATIVE SEED MIX (11 LBS PER ACRE)
-  WET NATIVE SEED MIX (8 LBS PER ACRE)

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WAYNE DEMPZE CRANBERRY CO COUNTY: WOOD

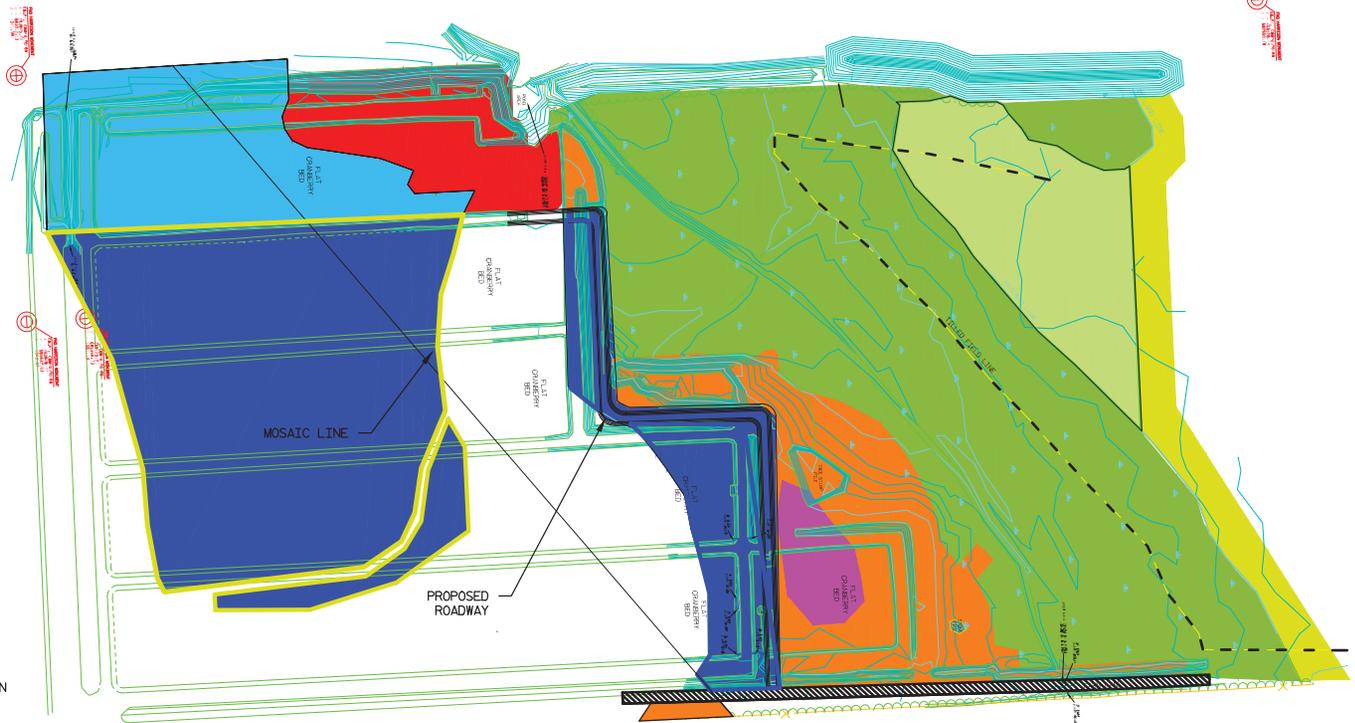
SEEDING PLAN

SHEET 6

E

5

5



-  0.25 ACRE PROPOSED ROADWAY EXEMPTION
-  1.65 ACRE WETLAND RE-ESTABLISHMENT - 83 SWAMP WHITE OAKS / 83 RED OSIER DOGWOODS
-  2.91 ACRE WETLAND RESTORATION - 291 RED MAPLE (TRANSPLANTS) / 146 SWAMP WHITE OAKS / 146 RED OSIER DOGWOODS
-  3.28 ACRE WETLAND RESTORATION - 164 SWAMP WHITE OAKS / 164 RED OSIER DOGWOODS
-  0.49 ACRE WETLAND RE-ESTABLISHMENT - 25 SWAMP WHITE OAKS / 25 RED OSIER DOGWOODS
-  6.87 ACRE AFTER THE FACT (ATF) - NO TREE PLANTING
-  1.42 ACRE UPLAND BUFFER - NO TREE PLANTING
-  2.47 ACRE WETLAND RE-ESTABLISHMENT - 124 SWAMP WHITE OAKS / 124 RED OSIER DOGWOODS
-  11.36 ACRE WETLAND REHABILITATION / ENHANCEMENT - 568 SWAMP WHITE OAKS / 568 RED OSIER DOGWOODS

TOTALS
 291 RED MAPLE (TRANSPLANT)
 1110 SWAMP WHITE OAKS (SEEDLING)
 1110 RED OSIER DOGWOODS (SEEDLING)

 2511 TOTAL TREES

7

7

