



US Army Corps
of Engineers
St Paul District

State of Wisconsin
**APPLICANT: Department of
Transportation**

Public Notice

**ISSUED: 22-JAN-2014
EXPIRES: 21-FEB-2014**

REFER TO: 2012-00773-AMN

SECTION: 404 - Clean Water Act

1. APPLICATION FOR Department of the Army Permit under Section 404 of the Clean Water Act to discharge dredged and fill material into 2.12 acres of Little Lake Butte des Morts and 27.40 acres of wetlands adjacent to unnamed tributaries to Little Lake Butte des Morts and the Arrowhead River to accommodate the WIS 441 Tri-County Freeway project.

2. SPECIFIC INFORMATION.

APPLICANT'S ADDRESS: State of Wisconsin Department of Transportation
944 Vanderperren Way
Green Bay, Wisconsin 54304

AGENT'S ADDRESS:: URS Corporation
342 N. Water Street, 7th Floor
Milwaukee, Wisconsin 53202

PROJECT LOCATION: The project site is located along the US 10/WIS 441 highway from the US 41 interchange west of Little Lake Butte des Morts to the Oneida Street interchange at the county line of Winnebago and Calumet Counties in Sections 1, 2, 3, 4, 9, 10, 11 & 16, T. 20N., R. 17E., Winnebago County, and Section 6, T. 20N., R. 18E., Calumet County, Wisconsin. The approximate UTM coordinates are Zone 16T, 383214.55 m E, 4897084.63 m N.

The mitigation sites are located in the SE $\frac{1}{4}$, Section 17, T. 20N., R. 16E., and the SW $\frac{1}{4}$, Section 20, T. 20N., R. 17E., Winnebago County, Wisconsin. Refer to Figure 1 for a location map of the proposed project and mitigation sites.

DESCRIPTION OF PROJECT: This project, referred to as the WIS 441 Tri-County Freeway Project, consists of the following: (1) Expansion of the Tri-County Freeway mainline from four to six lanes between US 41 and Oneida Street (three through lanes in each direction, along with an outside auxiliary lane in each direction); (2) Construction of a second parallel bridge over Little Lake Butte des Morts (south of the existing bridge) and redecking of the existing bridge (each bridge would have three through lanes and an outside auxiliary lane); (3) Reconstruction of the US 41 system interchange with US 10/WIS 441 to provide free-flow movements in all directions; (4) Construction of a northbound auxiliary lane on US 41 between Winchester Road (County II) and the Tri-County Freeway; (5) Modernization of the Racine Road (County P), Midway Road (County AP), Appleton Road (WIS 47) and Oneida Street (US 10) interchanges through the addition of turn lanes and reconstruction of the crossroads within interchange areas; and (6) US10/WIS 441 curve correction near the Midway Road interchange to accommodate increasing the design speed of the curve to be consistent with the corridor through the Racine Road and Midway Road interchanges.

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An Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) were approved by the Federal Highway Administration (FHWA) and WisDOT in 2010. In 2013, WisDOT prepared a re-evaluation of the 2010 EA/FONSI to address changes in project impacts to the natural, social, and economic environment due to design refinements and changes in the demographic composition of the affected area. The re-evaluation is currently being reviewed by the FHWA to reaffirm the FONSI.

Little Lake Butte des Morts is a navigable water of the U.S. under Sections 9 and 10 of the Rivers and Harbors Act of 1899. The Corps' regulatory authority over bridges and causeways in or over navigable waterways has been delegated to the U.S. Coast Guard (USCG). Corps regulation of the bridges and causeways for this project is thus limited to discharges of dredged and fill material regulated by Section 404 of the Clean Water Act. WisDOT has submitted a draft Section 9 permit application to the USCG for preliminary review, and will submit a final permit application upon notification that the FHWA has reaffirmed the FONSI. Refer to Figure 2 for a plan and profile view of the proposed bridge.

QUANTITY, TYPE, AND AREA OF FILL: The overall project would result in the discharge of dredged and fill material into 2.12 acres of Little Lake Butte des Morts and 27.40 acres of wetlands adjacent to unnamed tributaries to Little Lake Butte des Morts and the Arrowhead River to accommodate reconstruction of the US 10/WIS 441 Tri-County Freeway from the US 41 interchange west of Little Lake Butte des Morts to the Oneida Street interchange at the county line of Winnebago and Calumet Counties. An additional 0.93 acres of wetland would be impacted by shading and vegetation removal. Wetland locations are shown on the attached Figure 3.

The highway reconstruction would result in the discharge of dredged and fill material into 8.45 acres of Shallow Marsh (SM) Wetlands, 8.25 acres of Wet Meadow (M) Wetlands, 5.44 acres of Shrub Scrub (SS) Wetlands, 0.03 acre of Artificial SM Wetlands, 0.01 acre of Deep Marsh (DM) Wetlands, and 2.22 acres of Wooded Swamp (WS) wetlands. Total wetland fill would be 24.40 acres, 1.18 acres of which would be temporary fill impacts to SS Wetlands.

Additionally, 0.76 acre of wetland (0.06 acre SM, 0.42 acre SS, and 0.28 acre WS) would be permanently impacted due to shading from structures over 20 feet tall, and a further 0.17 acre of wetland (0.05 acre SS and 0.12 acre WS) would be temporarily impacted as a result of vegetation removal. The applicant has also proposed to relocate 6.37 acres of roadside wet ditches to accommodate the project. These wet ditches would be restored to their original wetland state after project completion.

This project would also result in the permanent discharge of dredged and fill material into 0.46 acres of Little Lake Butte des Morts. Of this 0.46 acre, 0.40 acre would accommodate 19 piers supporting the new bridge, and 0.06 acre would accommodate the relocation of three piers supporting the existing bridge. Dredged and fill material would be temporarily discharged into 1.75 acres of Little Lake Butte des Morts to accommodate temporary causeways required for the bridge work. Refer to Figure 4 for details of the proposed temporary causeways.

Dredged and fill material would also be permanently discharged into 0.44 acres of existing wetlands at the Rubbert Phase 3 mitigation site to accommodate a fixed weir and berm that would be used to control hydrology at the site. Dredged and fill material would be temporarily discharged into an

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additional 2.55 acres of existing wetland at the mitigation site during enhancement of this wetland area. No wetland fill is anticipated at the Town of Neenah mitigation site.

SOURCE OF FILL MATERIAL: The applicant has indicated that the source of fill material would be determined by the construction contractors after the project contract has been awarded. Fill material would be based on the final plans, specifications, and estimates prepared by WisDOT.

SURROUNDING LAND USE: The existing land use along the project corridor is primarily a mix of commercial, industrial, and residential development. Undeveloped land, consisting of forested and open areas, is present in smaller portions of the project area located inside the existing US 41 and US10/STH 441 interchange and along floodplains and stream corridors.

THE FOLLOWING POTENTIALLY TOXIC MATERIALS COULD BE USED AT THE PROJECT SITE: Fuel, hydraulic fluid, lubricants, coolant, and other fluids commonly used by construction 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 has indicated that potential water quality impacts would be minimized by constructing the project in accordance with the following guidelines and regulations:

- WisDOT Facilities Development Manual, Chapter 10—*Erosion Control and Storm Water Quality*
- Wisconsin Administrative Code Chapter TRANS 401—*Construction Site Erosion Control and Storm Water Management Procedures for Department Actions*
- WisDOT/DNR Cooperative Agreement Amendment—*Memorandum of Understanding on Erosion Control and Storm Water Management*

MITIGATION: The unavoidable impact to 25.77 acres of wetland would be fully compensated for in accordance with WisDOT's *Wetland Mitigation Banking Technical Guidelines*. The 23.67 acres of permanent wetland impacts resulting from the highway reconstruction and mitigation site fill would be mitigated at a ratio of 1.5:1. The 0.76 acre of permanent wetland impacts caused by shading of structures with a clearance greater than 20 feet would be mitigated at a ratio of 0.5:1. The 1.35 acres of temporary impacts resulting from vegetation removal and the temporary causeways would also be mitigated at a ratio of 0.5:1. The applicant has calculated that 35.90 acres of wetland mitigation would be required for this project. In addition, the applicant has proposed to relocate 6.37 acres of roadside wet ditches to accommodate the project. These wet ditches would be restored to their original wetland state after project completion.

Approximately 25.59 acres of the wetland mitigation would be constructed at the Rubbert Phase 3 mitigation site in the Town of Clayton, Winnebago County, through establishment and enhancement. Figures 5 and 6 detail the Rubbert Phase 3 mitigation site location and preliminary site plan. This site is bordered to the west and north by preexisting WisDOT mitigation sites. Upland buffer would be constructed on 13.21 acres of the site, providing 3.30 acres of credit. Based on the conceptual plan to date, estimated wetland types to be established/enhanced at the site include 1.66 acres of DM wetlands, 4.45 acres of SM wetlands, and 19.48 acres of M wetlands.

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The remaining mitigation would be constructed on a site located in the Town of Neenah, Winnebago County, through wetland restoration and creation. Flow from an adjacent ditch would be routed through this mitigation site to increase wetland hydrology. It is anticipated that 10-15 acres of wetland mitigation would be constructed at the Town of Neenah site to fulfill the remaining project mitigation requirements. If WisDOT is unable to purchase this site the remaining mitigation would be accomplished by a debit of credits from a WisDOT approved mitigation bank. Refer to Figure 7 for a location map of the proposed Town of Neenah mitigation site. Detailed mitigation plans and additional information can be obtained by contacting our office.

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, 180 Fifth Street East, Suite 700, Saint Paul, MN 55101-1678.

Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Ann Nye at the Green Bay field office of the Corps, telephone number (651) 290 - 5859.

To receive Public Notices by e-mail, go to: http://mvp-extstp.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, Winnebago 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>
Eastern prairie fringed orchid (T)	Wide variety of habitats, from mesic prairie to wetlands, marsh edges, & bogs

The FHWA has been designated as the lead federal agency for the purpose of consultation pursuant to the Endangered Species Act. This public notice is being coordinated with the U.S. Fish and Wildlife Service. Any comments 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 the practices for documenting Corps jurisdiction under Section 404 of the Clean Water Act identified in Regulatory Guidance Letter 08-02. We have

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made an initial determination that the aquatic resources that would be impacted by the proposed project are regulated by the Corps of Engineers under Section 404 of the Clean Water Act. The Corps will prepare an approved or preliminary jurisdictional determination prior to making a permit decision. Approved jurisdictional determinations are posted on the St. Paul District web page at <http://www.mvp.usace.army.mil/Missions/Regulatory.aspx>.

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 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.

The FHWA has been established as the lead federal agency for the purpose of project review pursuant to Section 106 of the National Historic Preservation Act. The State Historic Preservation Office (SHPO) is engaged in this review. This public notice is being sent to the National Park Service, interested Tribal Governments, and the State Archaeologist for their comments. 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,

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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.

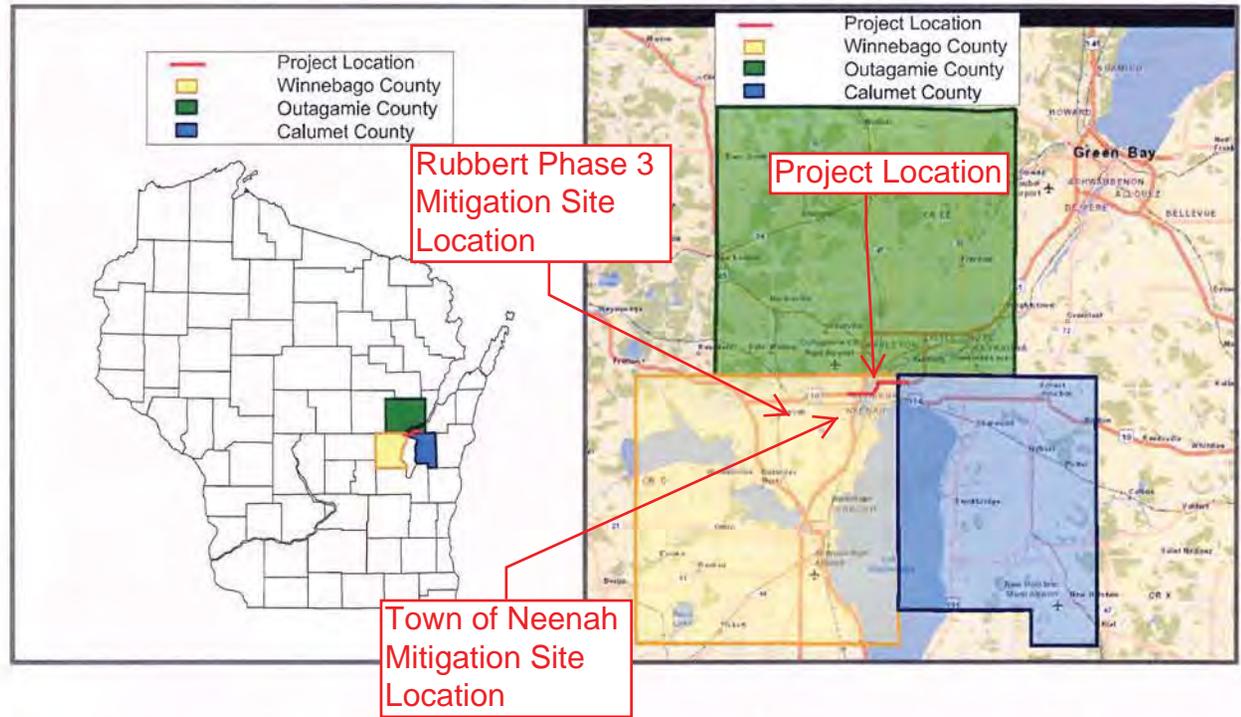
Todd Vesperman
Chief, Southeast Section

Enclosures

NOTICE TO EDITORS: This public notice is provided as background information and is not a request or contract for publication.

Project Location

US 41 AND US 10/WIS 441
TRI COUNTY FREEWAY
CALUMET AND WINNEBAGO
COUNTIES
WisDOT ID: 1517-07-04



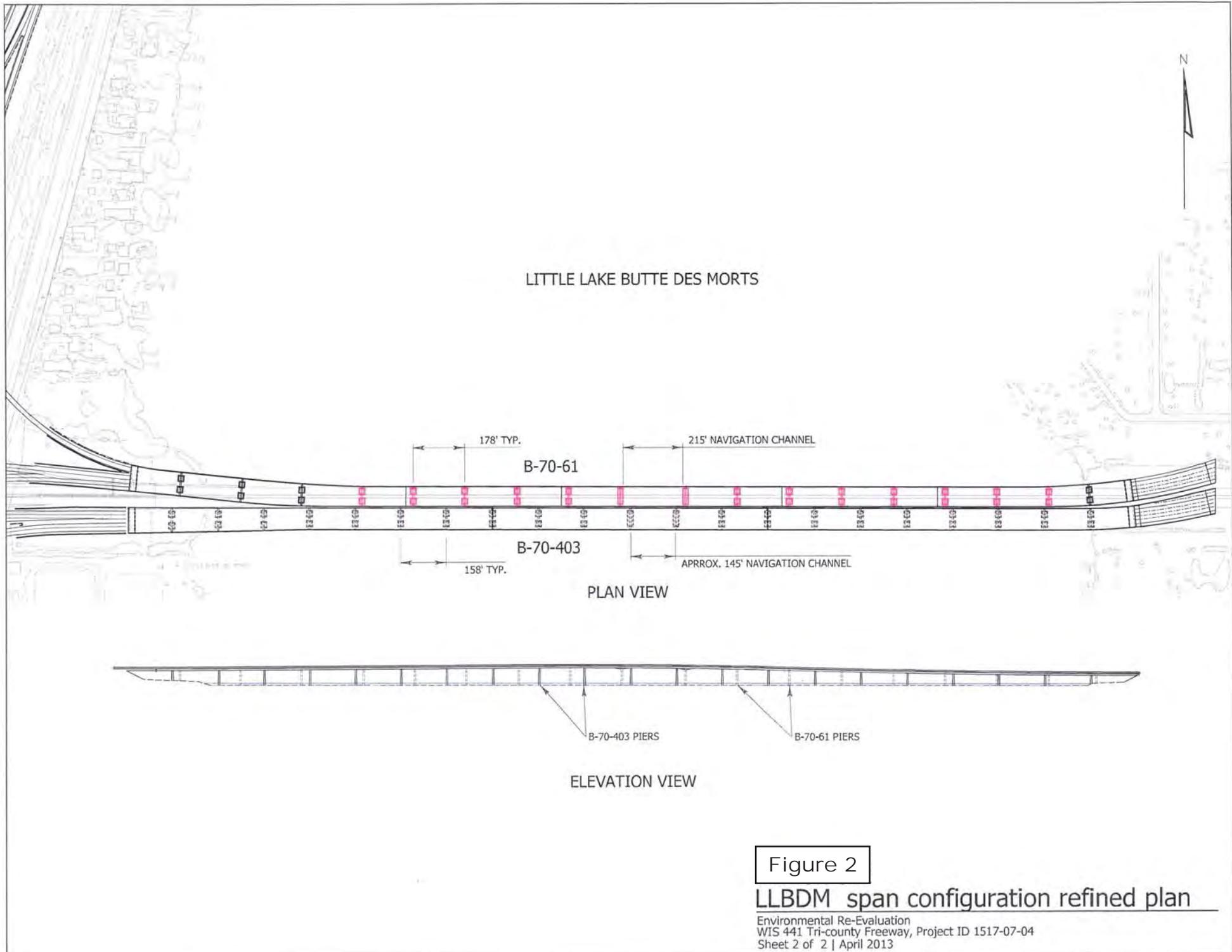
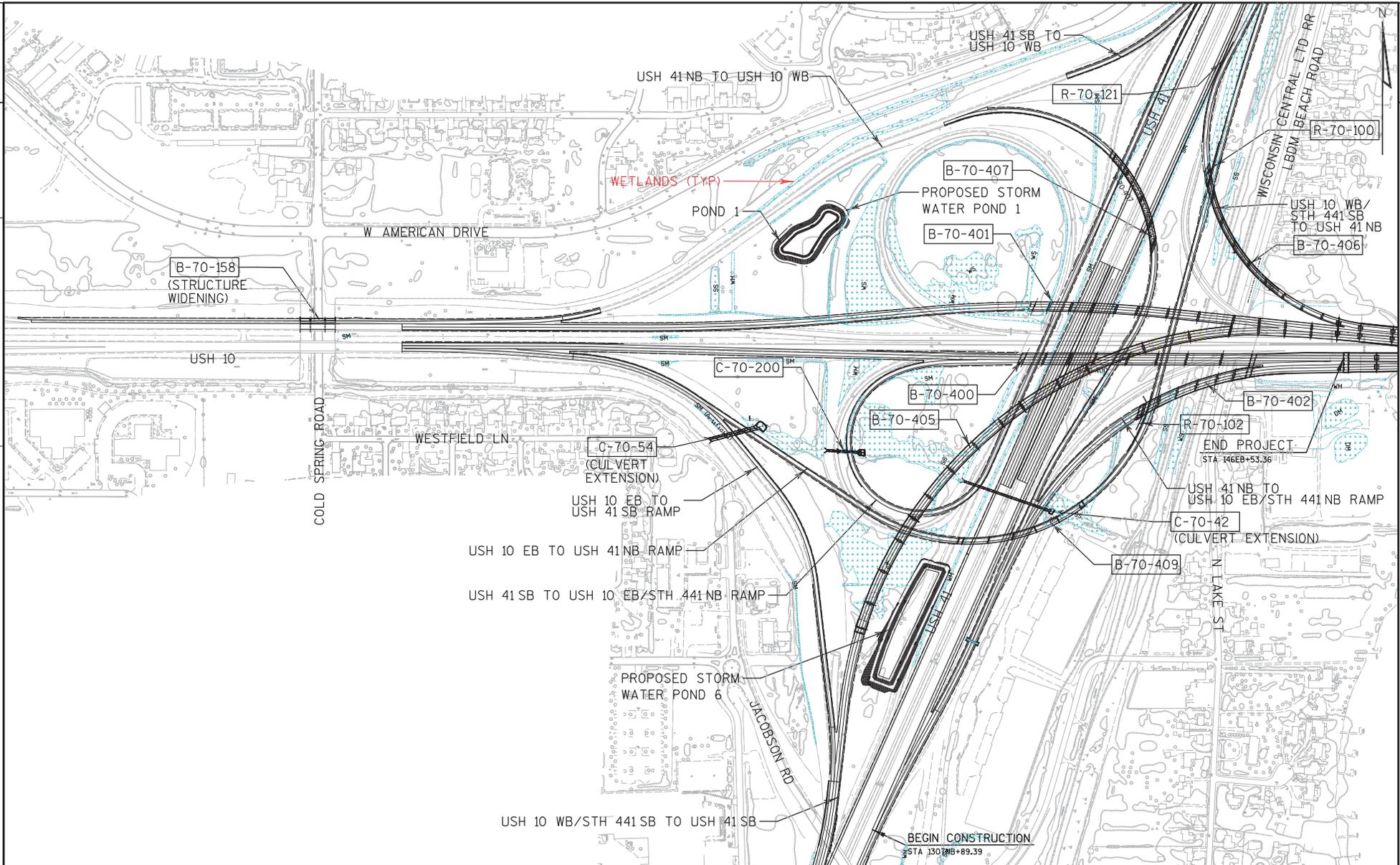


Figure 2

LLBDM span configuration refined plan
 Environmental Re-Evaluation
 WIS 441 Tri-county Freeway, Project ID 1517-07-04
 Sheet 2 of 2 | April 2013

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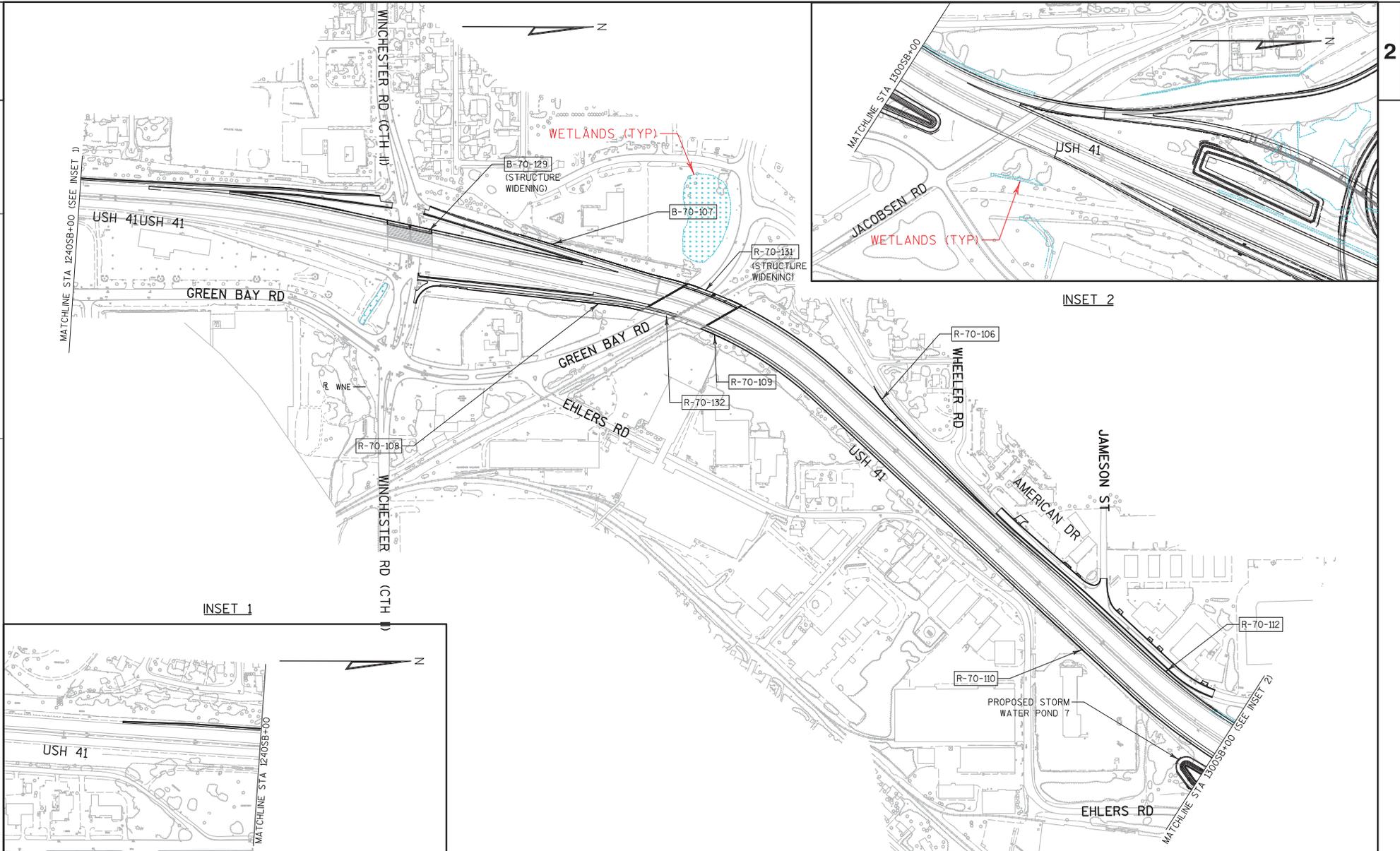


PROJECT NO: 1517-07-04	HWY: WIS 441	COUNTY: CALUMET/WINNEBAGO	PROJECT OVERVIEW	Figure 3, Sheet 1 of 7
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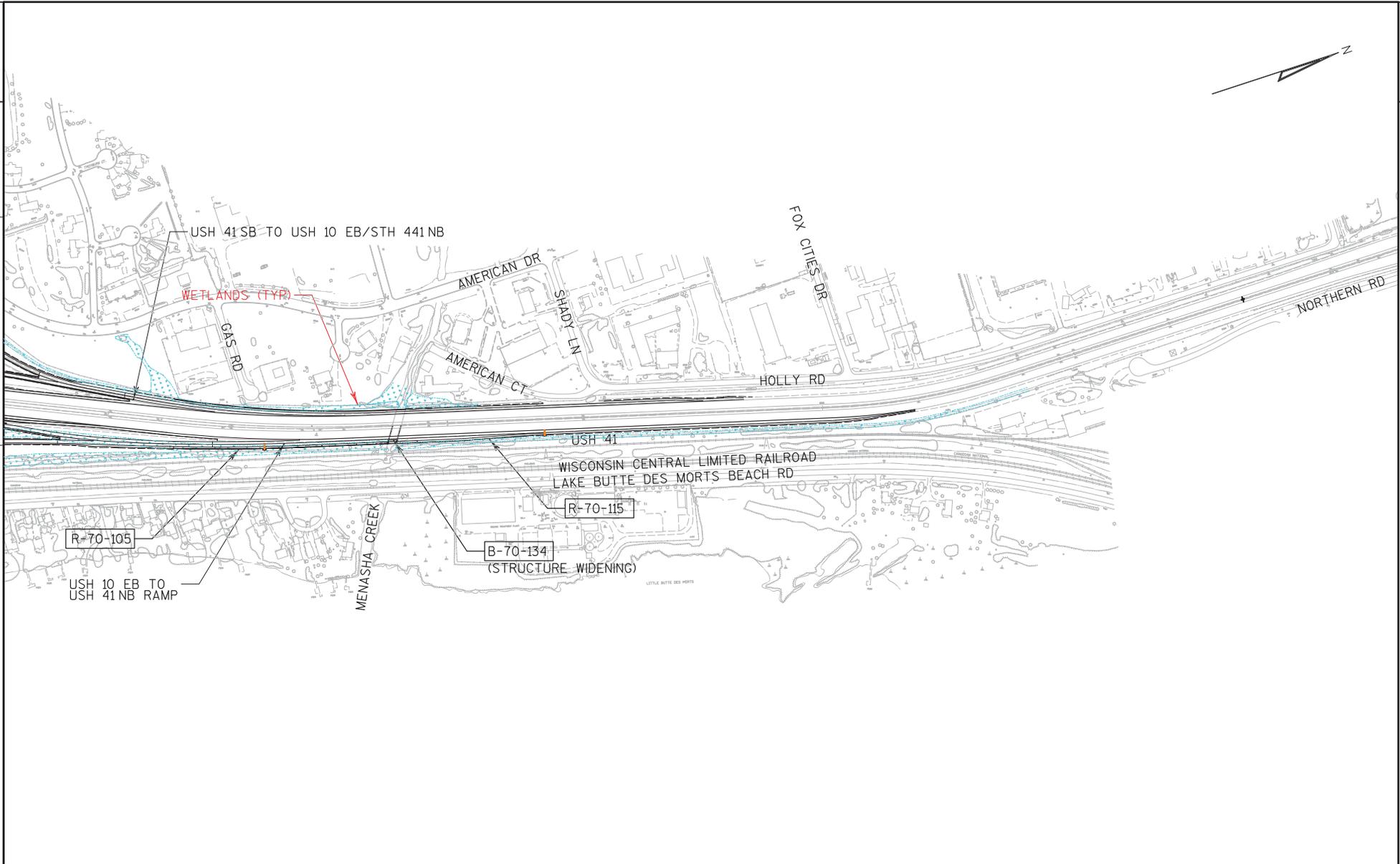


PROJECT NO: 1517-07-74	HWY: USH 10	COUNTY: WINNEBAGO	PROJECT OVERVIEW	Figure 3, Sheet 2 of 7	E
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PROJECT NO: 1517-07-04

HWY: WIS 441

COUNTY: CALUMET/WINNEBAGO

PROJECT OVERVIEW

Figure 3, Sheet 3 of 7

E

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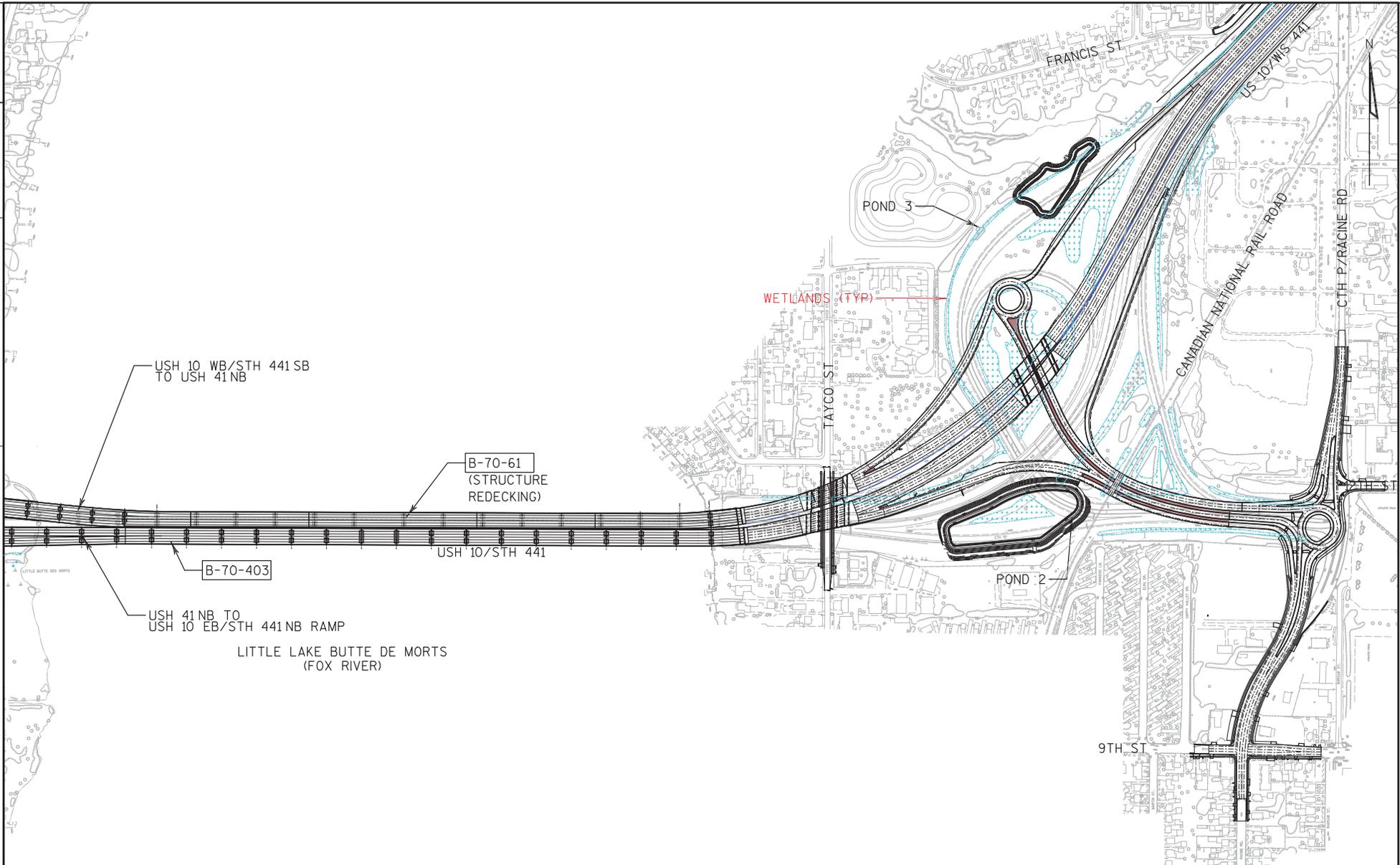
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PROJECT NO: 1517-07-04

HWY: WIS 441

COUNTY: CALUMET/WINNEBAGO

PROJECT OVERVIEW

Figure 3, Sheet 4 of 7 E

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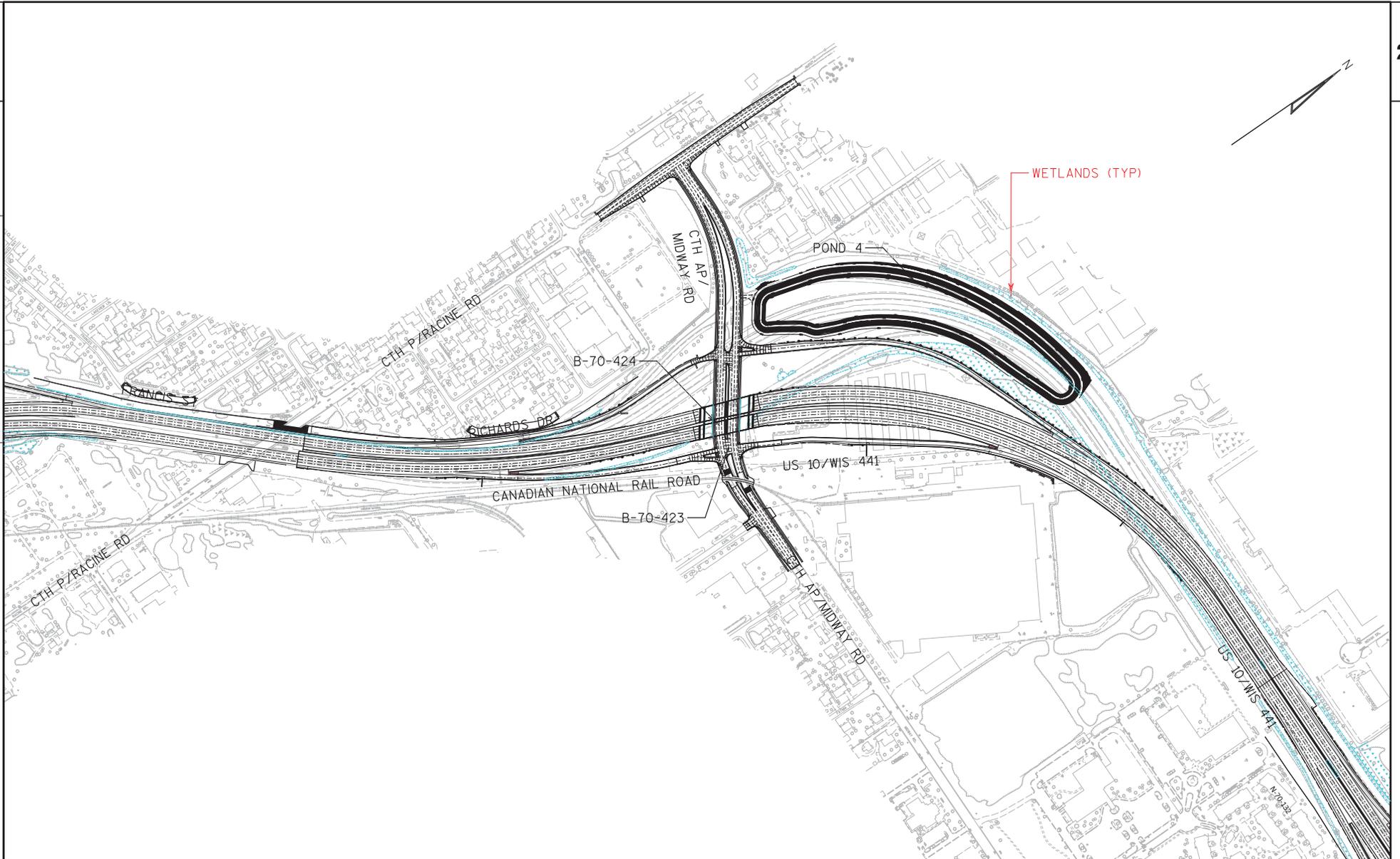
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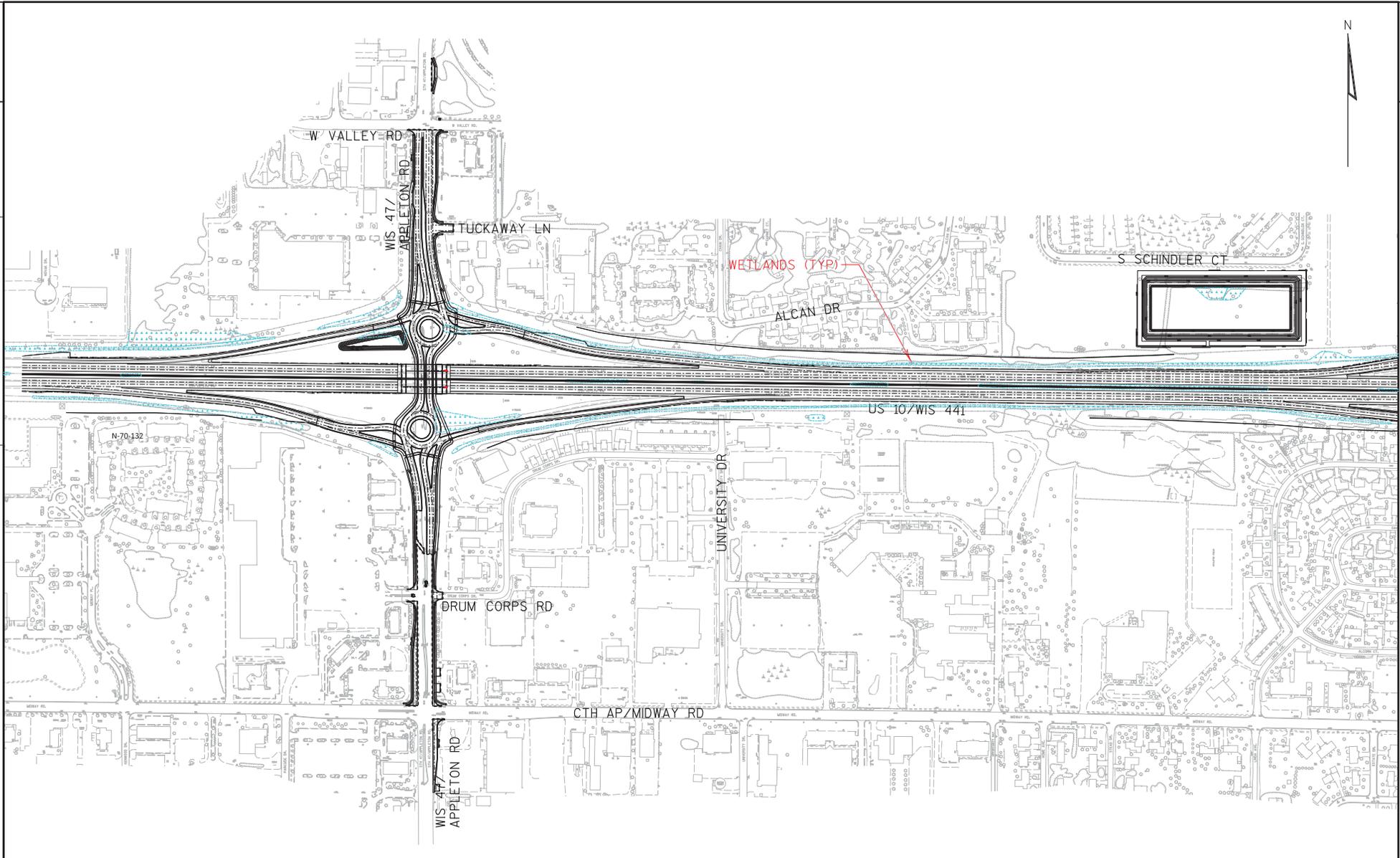
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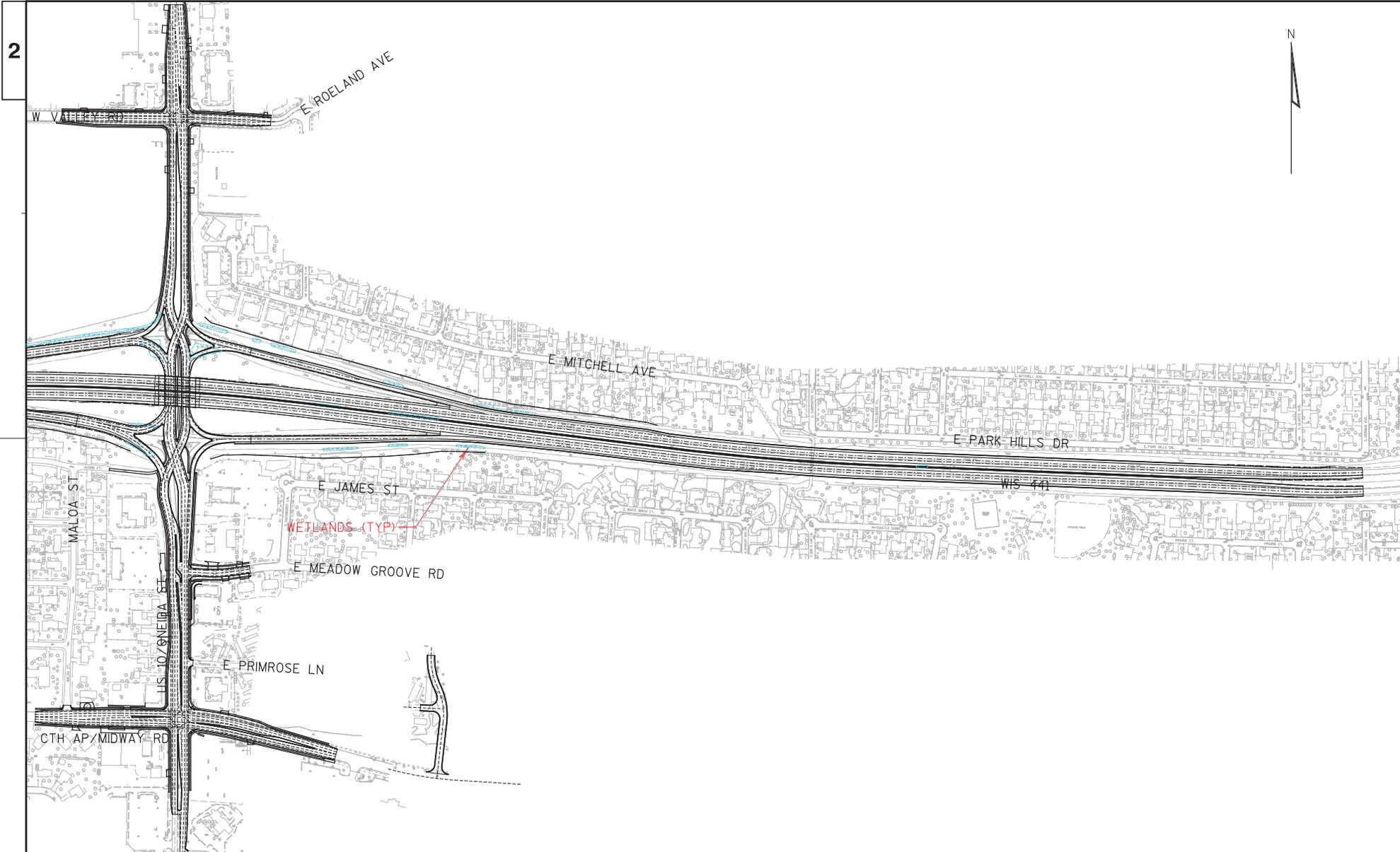
PROJECT NO: 1517-07-04	HWY: WIS 441	COUNTY: CALUMET/WINNEBAGO	PROJECT OVERVIEW	Figure 3, Sheet 5 of 7 E
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PROJECT NO: 1517-07-04	HWY: WIS 441	COUNTY: CALUMET/WINNEBAGO	PROJECT OVERVIEW	Figure 3, Sheet 6 of 7	E
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PROJECT NO: 1517-07-04	HWY: WIS 441	COUNTY: CALUMET/WINNEBAGO	PROJECT OVERVIEW	Figure 3, Sheet 7 of 7 E
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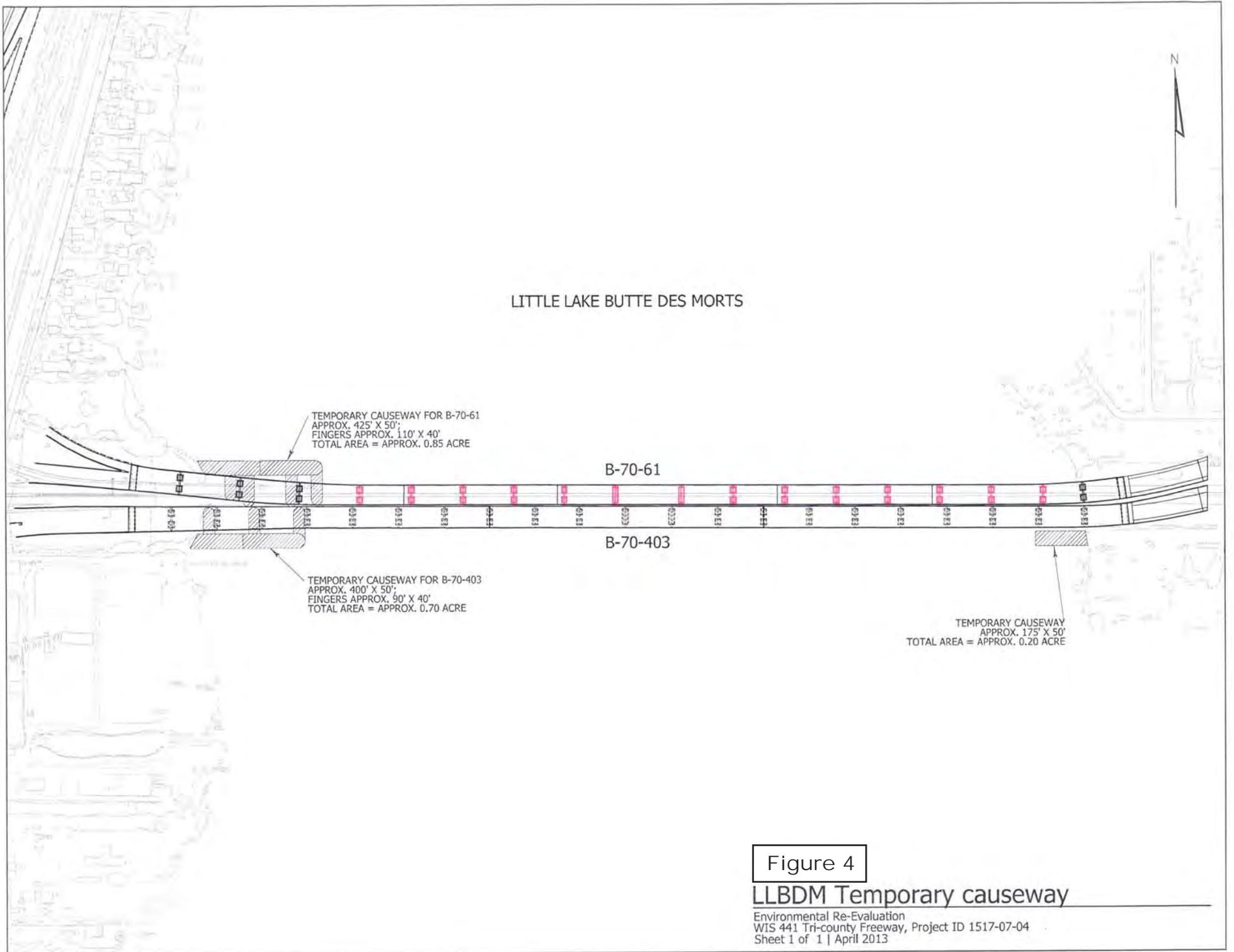


Figure 4

LLBDM Temporary causeway

RUBBERT WETLAND
MITIGATION SITE PHASE 3 -
AERIAL PHOTO OVERVIEW

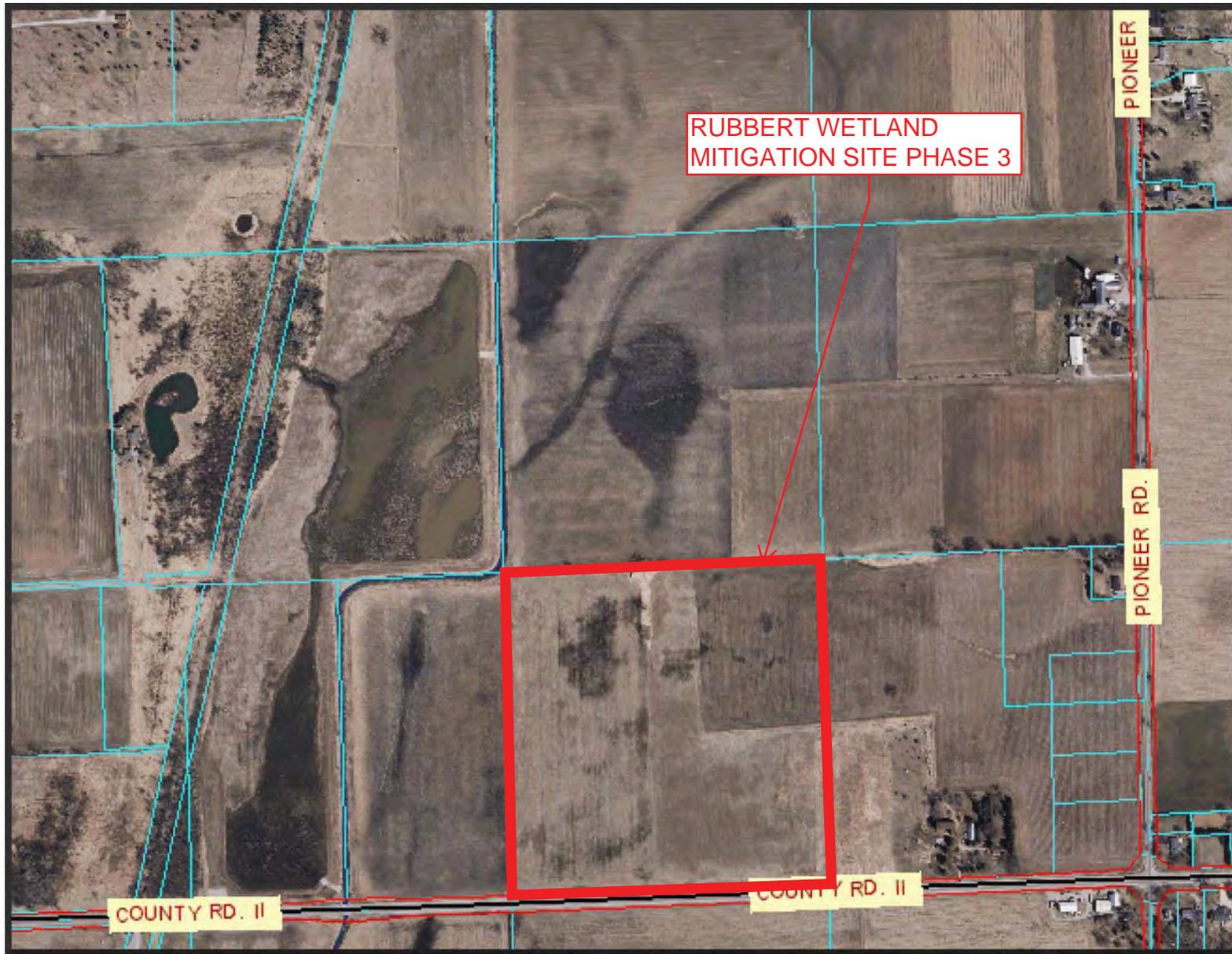
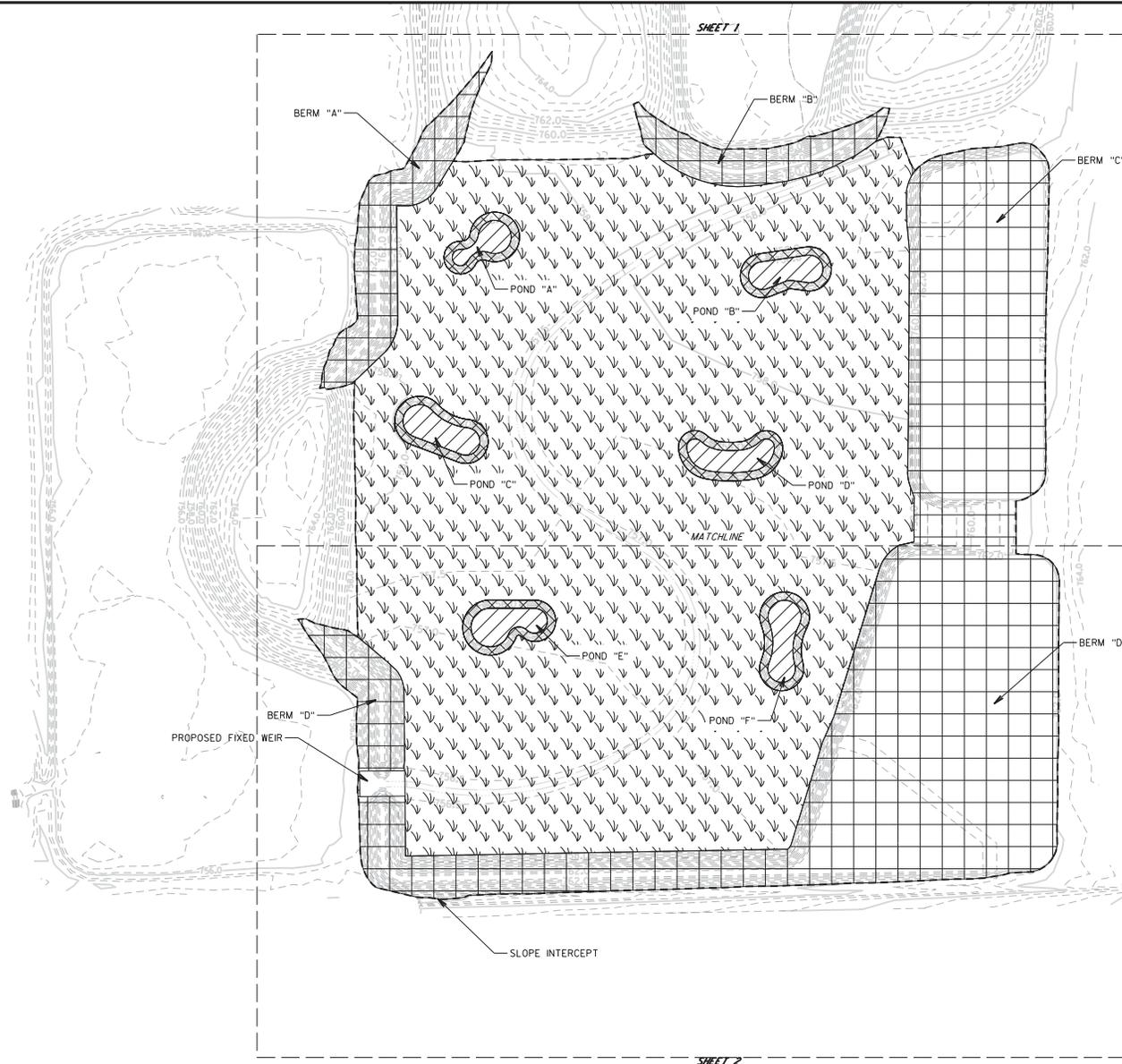


Figure 5



PLANTING AND SEEDING LEGEND

	DEEP MARSH PLANTING MIXTURE & DEEP MARSH ROOT STOCK
	DEEP MARSH PLANTING MIXTURE ONLY
	WET MEADOW & SHALLOW MARSH PLANTING MIXTURE
	SEEDING MIXTURE NO. 70 UPLAND BUFFER AREA



THE CONTRACTOR SHALL CONTACT THE NE REGION ENVIRONMENTAL SECTION, (920) 492-7738, A MINIMUM OF TWO WEEKS PRIOR TO PLANTING/SEEDING THE RUBBERT WETLAND MITIGATION SITE PHASE 3 TO ALLOW FOR DIRECTION ON FINAL PLANTING/SEEDING LIMITS AND LOCATIONS.

Figure 6

SCALE, FEET

Town of Neenah Mitigation Site
SW1/4, Section 20, T. 20N., R. 17E.,
Winnebago County

Ditch at approx. 770?

Ditch at approx. 775?

774

773

772

771

Figure 7

0 100 200 400 Feet

Images courtesy of USGS Earthstar Geographics © 2010 AMD

