



US Army Corps  
of Engineers  
St Paul District

**APPLICANT: Badger Mining Corp.**

**REFER TO: MVP-2015-03889-SJW**

# **Public Notice**

**ISSUED: 23 December 2015**

**EXPIRES: 22 January 2016**

**SECTION: 404 - Clean Water Act**

---

1. APPLICATION FOR PERMIT TO discharge fill material into 4.96 acres of wetlands adjacent to wetlands adjacent to an unnamed tributary to the East Fork Halls Creek for the construction of a rail loop at the Badger Mining Corporation Merrilan resin coating facility.

## 2. SPECIFIC INFORMATION.

### APPLICANT'S ADDRESS:

Badger Mining Corporation  
409 South Church Street  
Berlin, Wisconsin 54923

### AGENT:

Eric Parker-Stantec Inc.

### AGENT'S ADDRESS:

209 Commerce Parkway  
Cottage Grove, WI 53527

**PROJECT LOCATION:** The project site is located in Sections 9, 10, and 15, Township 23 North, Range 4 West, Jackson County, Wisconsin. The approximate UTM coordinates are Lat: 44.48209 Lon: -90.85282. See attached figure labeled MVP-2015-03889-SJW: Figure 1 of 3.

**DESCRIPTION OF PROJECT:** Badger Mining Corporation has submitted a request for authorization under Section 404 of the Clean Water Act (CWA) for unavoidable impacts associated with the construction of a rail loop at the Badger Mining Corp-Merrilan resin coating facility. The proposed activity would include the construction of a rail loop with the ability to accommodate 175 rail cars that would be used to transport sand to and from the existing resin coating facility. Specifically, construction activities would include the removal of two No.11-115# RH (right hand) HTTO (Hand-Thrown Turn-Out) and 956 track feet of existing 115# rail, and the installation of five new No. 11-115# LH (left hand) HTTO, eight new No. 11-115# RH HTTO, 23,425 track feet of new 115# rail, 144 track feet of new timber and gravel crossings, and one earthen berm. In addition, a 184'x 192"x 96" open bottom arch type culvert will be installed over an unnamed tributary to the East Branch of Halls Creek to allow for the rail loop to cross the waterway.

**QUANTITY, TYPE, AND AREA OF FILL:** The proposed project would result in the discharge of fill material into 4.96 acres of wetlands from the construction of the proposed rail loop. The wetlands found within the review area fall within the Upper Mississippi Region Watershed (07040007).

## **Operations - Regulatory (MVP-2015-03889-SJW)**

**AFFECTED WETLAND AREAS:** The Badger Mining Corporation project area consists of 12 identified wetlands. The locations of these wetlands (listed below) can be found on the attached figure labeled MVP-2015-03889-SJW: Figure 2 of 3.

- Wetland 1 (1.516 acres) – Shrub-carr/forested wetland community type.
- Wetland 2 (1.517 acres) – Shrub-carr/forested wetland community type.
- Wetland 3 (0.009 acres) – Disturbed/degraded farmed wetland.
- Wetland 4 (0.359 acres) – Disturbed/degraded farmed wetland.
- Wetland 5 (0.440 acres) – Disturbed/degraded farmed wetland.
- Wetland 6 (0.391 acres) – Disturbed/degraded farmed wetland.
- Wetland 7 (0.158 acres) – Disturbed/degraded farmed wetland.
- Wetland 8 (0.365 acres) – Disturbed/degraded farmed wetland.
- Wetland 9 (0.139 acres) – Disturbed/degraded farmed wetland.
- Wetland 10 (0.004 acres) – Disturbed/degraded farmed wetland.
- Wetland 11 (0.046 acres) – Disturbed/degraded farmed wetland.
- Wetland 12 (0.015 acres) – Disturbed/degraded farmed wetland.

**SOURCE OF FILL MATERIAL:** Fill material used during the construction of the project would be excavated from an on-site location. Pre-app soil borings have confirmed the suitability of the material for use on the embankments.

**SURROUNDING LAND USE:** The lands surrounding the project site primarily consist of agricultural lands and forested parcels with rural residences scattered randomly throughout the landscape.

**THE FOLLOWING POTENTIALLY TOXIC MATERIALS COULD BE USED AT THE PROJECT SITE:** Use of equipment such as loaders and large trucks could result in minor spills of gas, oil, fuel oil, or other petroleum products.

**THE FOLLOWING PRECAUTIONS TO PROTECT WATER QUALITY HAVE BEEN DESCRIBED BY THE APPLICANT:** Wetlands not impacted by the proposed project will remain intact and erosion control mechanisms will be implemented to prevent impacts from potential runoff into these wetlands. Soils will be stabilized with vegetation and silt fencing, and no equipment or construction materials/debris will be staged or placed in wetlands areas.

**MITIGATION:** The applicant has stated its intentions to explore the availability of wetland mitigation credits within the Upper Mississippi Black-Root Bank Service Area (BSA) to compensate for the unavoidable loss of wetlands resulting from the project. If bank credits are not available, Badger will utilize the Wisconsin In-Lieu-Fee Program to compensate for these losses.

### **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.

**Operations - Regulatory (MVP-2015-03889-SJW)**

Replies may be addressed to Regulatory Branch, St. Paul District, Corps of Engineers, 1314 Contractors Boulevard Plover, Wisconsin 54467.

Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Sam Woboril at the Stevens Point (Plover) field office of the Corps, telephone number (651) 290 - 5878.

To receive Public Notices by e-mail, go to: [http://mvp-extstp.mvp.usace.army.mil/list\\_server/](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, Jackson County is within the known historic range of the following Federally-listed threatened (T) and endangered (E) species:

<u>Species</u>	<u>Habitat</u>
Gray Wolf (E)	Northern Forested Areas
Northern long-eared bat (T)	Caves and Mines/Upland Forests
Kirtland's warbler (E)	Jack Pine Stands
Karner blue butterfly (E)	Prairie, oak savanna, and jack pine areas.

A certified endangered resources (ER) review was conducted by Stantec for the proposed project. No terrestrial species were identified within a 1-mile buffer of the project. One fish species was identified within a 2-mile buffer (aquatic features) of the project.

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 identified in Regulatory Guidance Letter 08-02. 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 404 of the Clean Water Act and/or Sections(s) 9 & 10 of the Rivers and Harbors Act. The Corps will prepare an approved or preliminary jurisdictional determination prior to making a permit decision. Approved jurisdictional determinations are posted to the St. Paul District web page at <http://www.mvp.usace.army.mil/Missions/Regulatory.aspx>.

## **Operations - Regulatory (MVP-2015-03889-SJW)**

THE APPLICANT HAS STATED THAT THE FOLLOWING STATE, COUNTY, AND/OR LOCAL PERMITS HAVE BEEN APPLIED FOR/ISSUED:

### **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 on any properties that have yet to be identified. 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.

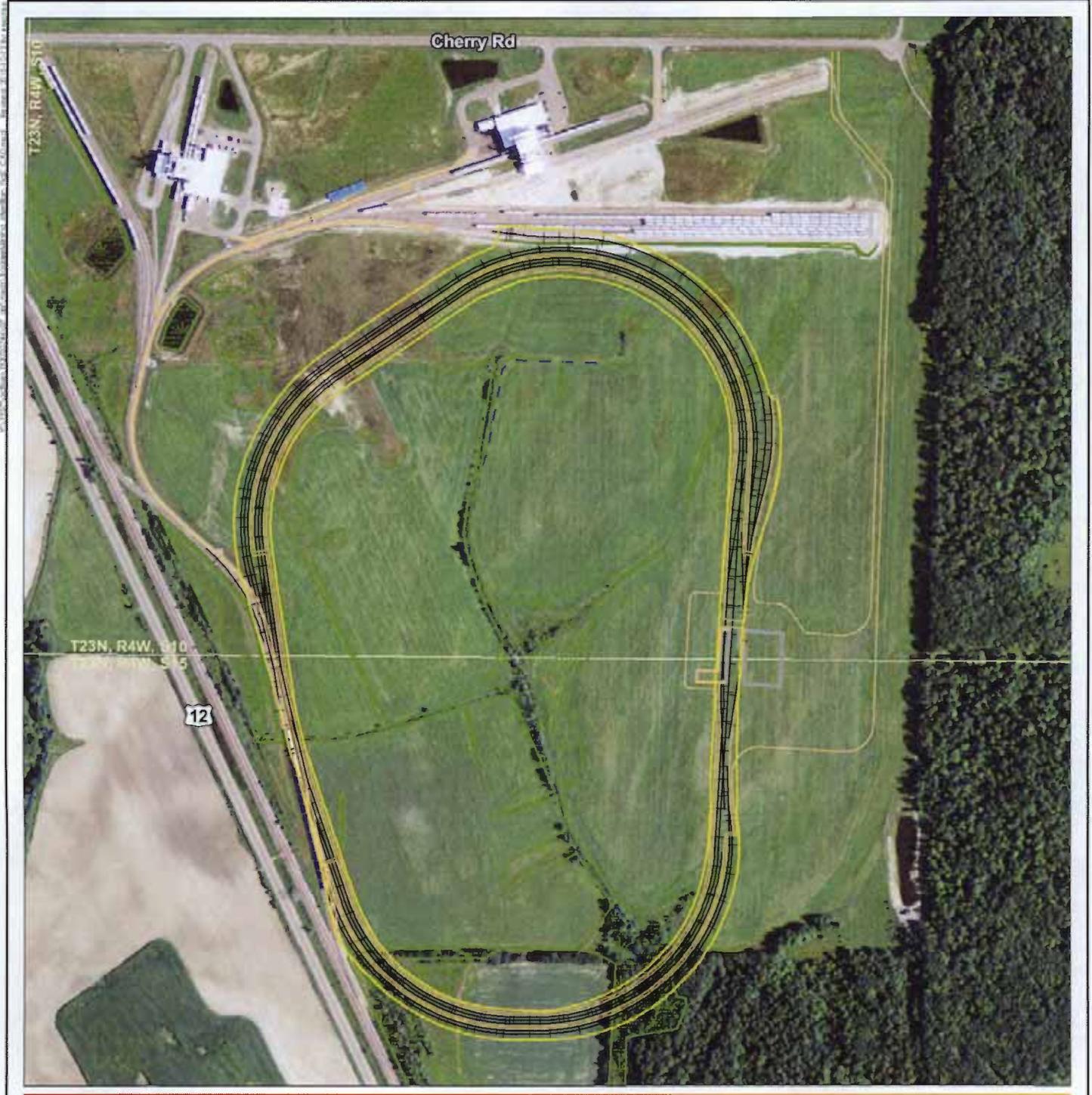
The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine 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.

**Operations - Regulatory (MVP-2015-03889-SJW)**

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

Attachments: MVP-2015-03889-SJW: Figures 1 of 3 through 3 of 3



**Legend**

- Approximate Track Loop Area of Disturbance (29.78 Acres)
- Concurrence Wetland Area (8-21-2015)
- Proposed Track
- Access Roads
- Building
- WDNR 24k Hydrography
- Perennial Stream
- Intermittent Stream
- Waterbody

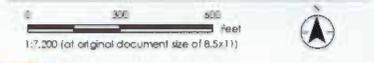
Figure No.  
**7**

Title  
**Field Collected Wetland Data and CAD data**

Client/Project  
Badger Mining Corporation  
Merrilan Permit

Project Location  
T23N, R4W, S10 & S15  
T. of Alma, Jackson Co., WI

Prepared by AB on 2015-08-24  
Technical Review by LR on 2015-08-25  
Independent Review by KJ on 2015-10-12



**Notes**

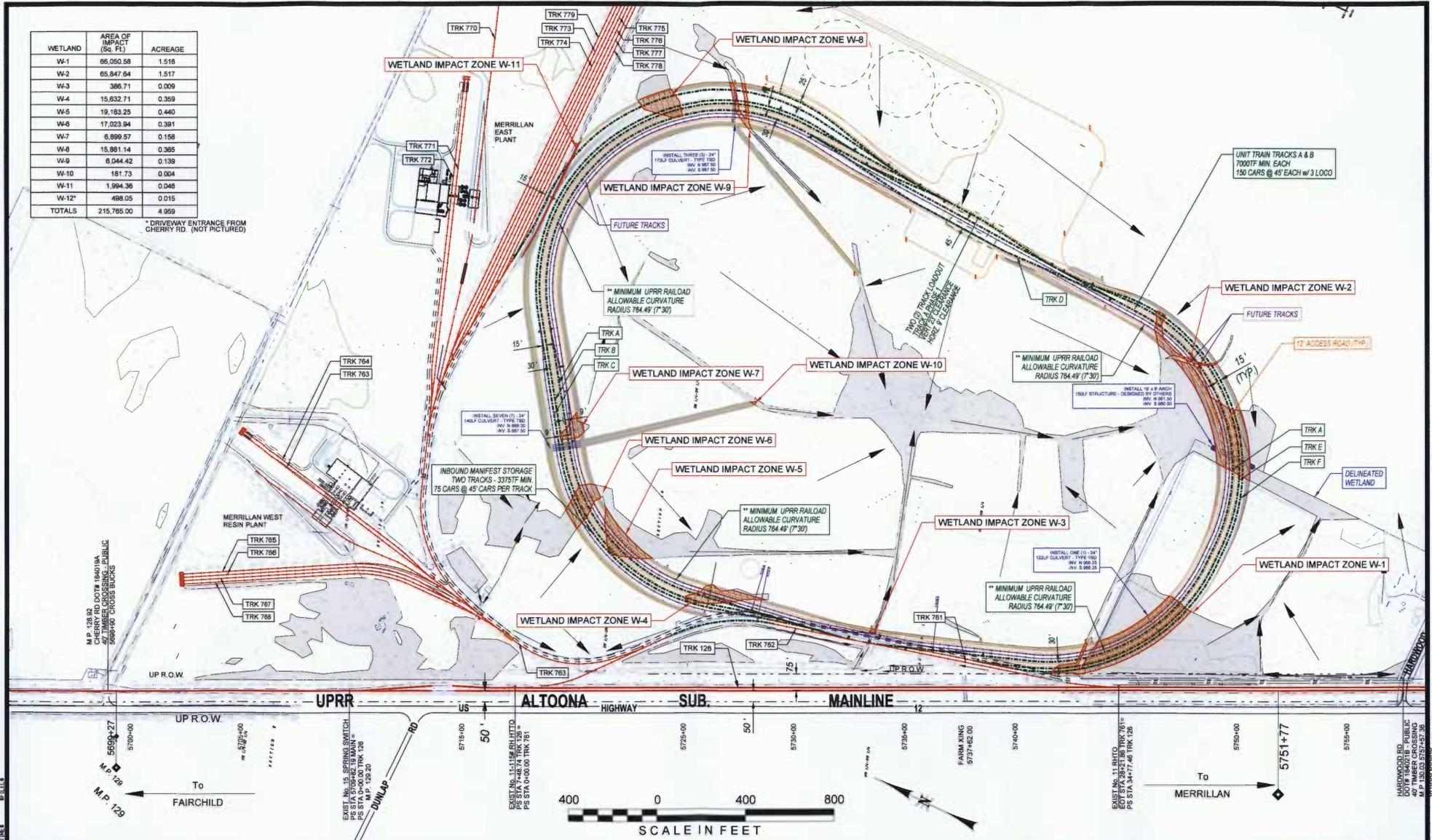
- Coordinate System: NAD 1983 StatePlane Wisconsin Central FIPS 4802 Feet
- Data Sources include: Badger Mining Corp., Stantec, WDNR, WisDOT
- Orthophotography: 2013 NAIP

Disclaimer: Stantec assumes no responsibility for data supplied in electronic format. The recipient accepts full responsibility for verifying the accuracy and completeness of the data. The recipient releases Stantec, its officers, employees, consultants and agents, from any and all claims arising in any way from the content or provision of the data.



WETLAND	AREA OF IMPACT (Sq. Ft.)	ACREAGE
W-1	66,050.58	1.516
W-2	65,847.64	1.517
W-3	386.71	0.009
W-4	15,632.71	0.359
W-5	19,183.25	0.440
W-6	17,023.94	0.391
W-7	8,999.57	0.158
W-8	15,801.14	0.365
W-9	6,044.42	0.139
W-10	161.73	0.004
W-11	1,994.36	0.046
W-12*	488.05	0.015
TOTALS	215,765.00	4.959

\* DRIVEWAY ENTRANCE FROM CHERRY RD. (NOT PICTURED)



**VIA RAIL LOGISTICS, LLC**  
 550 W34325 Ridgeway Drive  
 Dousman, Wisconsin 53118  
 phone: 414.405.7682  
 fax: 925.403.5334

**- PRELIMINARY -**  
**NOT FOR CONSTRUCTION**

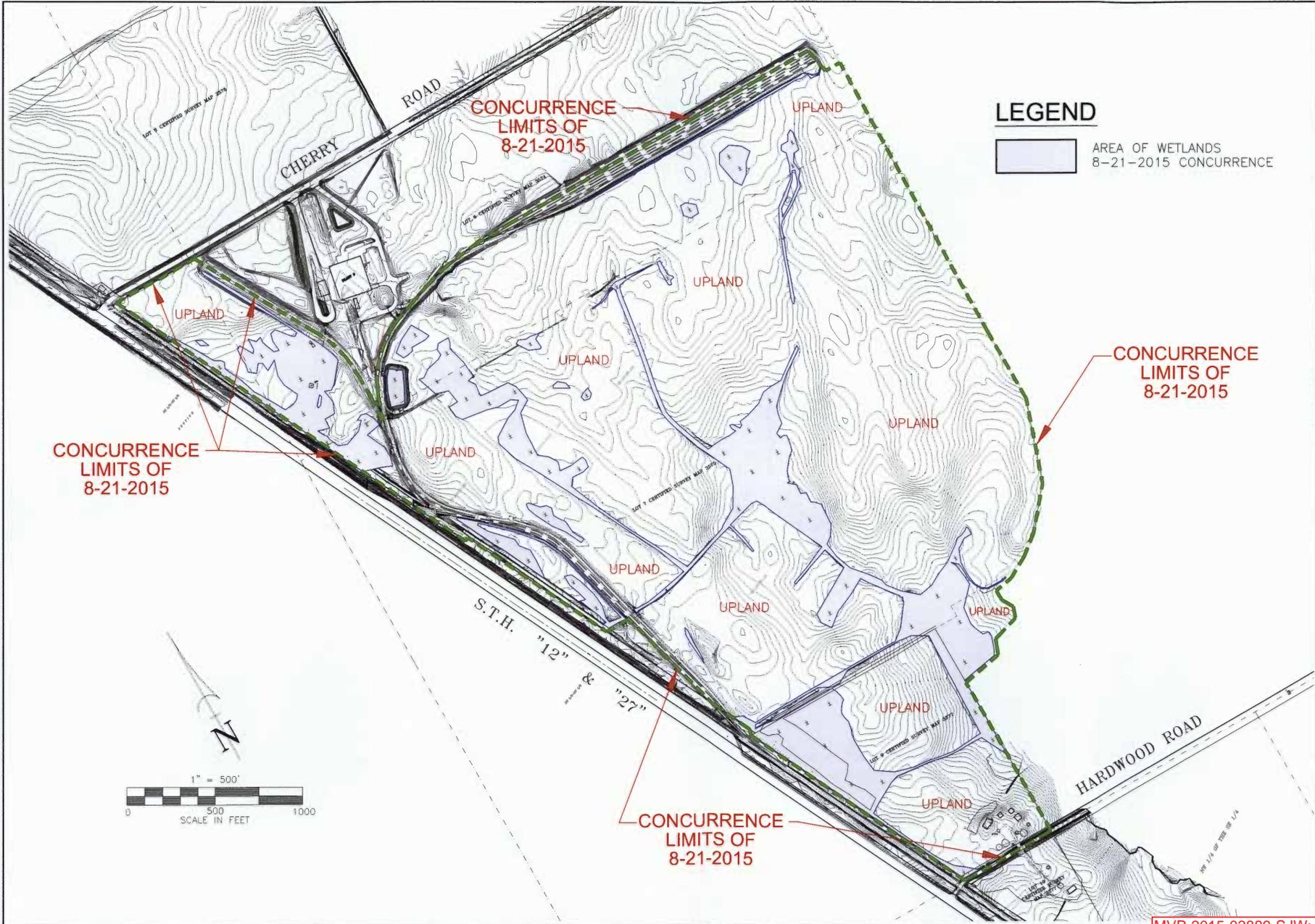
REV #	BY	DATE	DESCRIPTION
001	JPR	10/07/15	REVISED WETLAND TABLE

LEGEND:
EXISTING MAINLINE TRACK
EXISTING SIDING TRACK
EXISTING INDUSTRY OWNED TRACK
PROPOSED RAILROAD OWNED TRACK
PROPOSED INDUSTRY OWNED TRACK
UPRR RIGHT OF WAY
FIBER OPTIC CABLE
PROPERTY BOUNDARY (OTHER)

DRAWN BY:	JPR
CHECKED BY:	FMH
DATE:	09/02/15
SHEET NUMBER:	01 of 03



For Use in Agreement With **UNION PACIFIC RAILROAD**  
 And Badger Mining  
 LOCATION & DESCRIPTION: MILEPOST 129.86, ALTOONA SUBDIVISION, MERRILLAN, JACKSON, WISCONSIN  
 Trackage to Serve: Badger Mining  
 SHEET TITLE: ALTERNATIVE DESIGN A  
 MVP-2015-03889-SJW: Figure 2 of 3



**LEGEND**

AREA OF WETLANDS  
8-21-2015 CONCURRENCE

**Martenson & Eisele, Inc.**  
 13377 Mickey Road  
 Menasha, WI 54952  
 www.martenson-eisele.com  
 Environmental  
 Engineering  
 Architecture  
 920.737.0381 | 1.800.236.0391

NO.	DATE	BY	APPROVED	REVISION

**WETLAND LOCATION MAP  
FOR CONCURRENCE**  
 ATLAS RESIN PROPPANTS  
 TOWN OF ALMA, JACKSON COUNTY, WISCONSIN

SCALE	DATE
1"=500'	8-26-2015
COMPUTER FILE	
1-0462-0011.dwg	

DRAWING NO.