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): SEP 0 8 2017

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Litfin Property, MVP-1998-08089-MLV

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Minnesota County/parish/borough: Wright City: Delano

Center coordinates of site (lat/long in degree decimal format): Lat. 45.055029° N, Long. -93.78018° W.

Universal Transverse Mercator:

Name of nearest waterbody: South Fork Crow River

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

Name of watershed or Hydrologic Unit Code (HUC): 0701020507 South Fork Crow River

☒ 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: March 2, 2017

☒ Field Determination. Date(s): April 18, 2017

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: linear feet: width (ft) and/or acres.
      Wetlands: Wetland 1 (0.99 acre), Wetland 2 (0.35 acre), Wetland 3 (0.22 acre), Wetland 4a (0.14 acre), Wetland 4b (0.12 acre) acres.

   c. **Limits (boundaries) of jurisdiction** based on: **1987 Delineation Manual**
      Elevation of established OHWM (if known): n/a.

[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).

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: .

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: **South Fork Crow River**.

   Summarize rationale supporting determination: The South Fork of the Crow River is known to be used by interstate and foreign travelers for water-based recreation, including but not limited to canoeing, kayaking, and recreational fishing.

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

This approved jurisdictional determination is only applicable to Wetlands 1, 2, 3, 4a, and 4b within the review area shown on the enclosed figures labeled MVP-1998-08089-MLV Page 1 of 5 through Page 2 of 5. The site consists of an abandoned aggregate mining operation and former solid waste storage facility on a non-wetland terrace. According to historical aerial photography, mining operations began on the property in the early 1950s. The site is highly disturbed and consists of cut and fill areas.

Five wetland basins were identified within the review area, as shown on the enclosed figure labeled MVP-1998-08089-MLV Page 2 of 5. The five wetlands consist of steeply-sided pits that were excavated in upland for the purpose of obtaining gravel. The November 2014 Phase 1 Environmental Site Assessment report estimates that gravel mining operations ceased between 2000 and 2003. The pits have since taken on characteristics of open water wetlands with inclusions of deep marsh, shallow marsh, and wet meadow in some areas. Water depths in the deepest portions of the basins can exceed 6.6 feet. The South Fork of the Crow River is the nearest TNW and the river and its floodplain border the site to the north and west. According to the preamble to 33 CFR Parts 320, these five basins are potential waters of the U.S. because they are within the following category: "Waterfilled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of U.S (see 33 CFR 328.3(a))."

Field review was conducted on April 18, 2017, and wetland boundaries were confirmed to be accurate. Wetlands 1, 4a, and 4b are within the 100-year floodplain of the South Fork of the Crow River (see enclosed figure labeled MVP-1998-08089-MLV Page 3 of 5); however, a man-made berm approximately 30 feet high physically separates Wetlands 4a and 4b from the river. 33 CFR 328.3(c) states that "wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes and the like are also adjacent." Wetlands 4a and 4b are separated from the TNW by a man-made berm; therefore, Wetlands 4a and 4b are adjacent to a TNW. An approximately 25-feet-wide upland area serving as an access road separates Wetland 1 from floodplain forest wetland abutting the TNW. The floodplain forest is located outside of the review area; therfore no field-verified wetland determination is available at this time.

[3] Supporting documentation is presented in Section III.F.

No pipes, swales, or other surface hydrologic connections between the wetlands and the TNW were observed during the site visit. Although mature trees surround the wetland basins, ecological connections between the wetland basins and the TNW and its floodplain were not observed during on-site review.

In April 2017, water surface elevations of each wetland basin and South Fork of the Crow River were professionally surveyed. The surface elevation of the South Fork of the Crow River at the time of survey was 906.46 feet above Mean Sea Level (MSL). The water surface elevations of each wetland basin at the time of survey were as follows:

Wetland 1: 907.32 feet
Wetland 2: 906.90 feet
Wetland 3: 907.10 feet
Wetland 4a: 906.35 feet
Wetland 4b: 906.46 feet

Surveyed water elevations confirm that water levels in the wetlands and the water level of the TNW are all within one foot of elevation, supporting the conclusion that wetland water levels rise and fall with fluctuations in water levels of the South Fork of the Crow River.

Corps records indicate a request for Department of the Army authorization to fill the gravel pit wetlands was submitted in the year 1998. The application was submitted jointly by property owners Glen and Arlene Litfin and Buffalo Bituminous, Inc. Buffalo Bituminous included a cross sectional drawing of what appears to be Wetlands 4a and 4b and the Crow River (see enclosed figure labeled MVP-1998-08089-MLV Page 5 of 5). The drawing, although hand-sketched, illustrates that the bottom elevation of the wetlands is the same elevation as the Crow River. In 1998, the five basins were reported as containing "one to two feet of water at normal to high river elevations." Based on this statement and observed water depths of 3 to 7 feet during site review, it appears that surface water levels in the wetlands at present-day have risen by several feet. The 1998 permit application also stated that "the site has been lowered variously from 10 to 35 feet in elevation by mining. The northeeasterly floodway boundary is a natural undisturbed river bank with elevations from 916 to 928 feet approximately. The northwesterly flood fringe is bounded by man-made dikes and natural embankments at elevation 915 to 918 feet approximately." The 1998 application also commented on the subsoil within the five gravel pits, calling it "very pervious." A Department of the Army permit was never issued. Corps records indicate the permit application was withdrawn on April 2, 1999. At the time the permit application was being evaluated, Corps records indicate the Corps asserted jurisdiction over the gravel pits based on use by migratory waterfowl and shorebirds. Due to the 2001 U.S. Supreme Court decision, "Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (Corps)," the Corps no longer asserts jurisdiction over aquatic resources based on use by migratory birds.

According to the Wright County Soil Survey, the general soil type is 1030 pits, gravel-Udipsamments complex. Approximately 80 percent of the site consists of the soil series "Pits, gravel." The parent material consists of sandy and gravelly outwash. Approximately 20 percent of the site consists of Udipsamments. The parent material of Udipsamments consists of outwash. Refer to the enclosed figure labeled MVP-1998-08089-MLV Page 4 of 5. These soil types are characterized as being highly permeable.

The soil characteristics in conjunction with the surveyed elevations of surface water elevations discussed above support the conclusion that a shallow subsurface connection between the wetlands and the South Fork of the Crow River is present. Therefore, Wetlands 1, 2, 3, 4a, and 4b are adjacent to a TNW, and are waters of the U.S..

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: **Pick List**
Drainage area: **Pick List**
Average annual rainfall: inches
Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.
☐ Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.
Project waters are **Pick List** river miles from RPW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Project waters are **Pick List** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: .

Identify flow route to TNW[5]: .
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: feet
Average depth: feet
Average side slopes: **Pick List.**

Primary tributary substrate composition (check all that apply):

☐ Silts ☐ Sands ☐ Concrete
☐ Cobbles ☐ Gravel ☐ Muck
☐ Bedrock ☐ Vegetation. Type/% cover:

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[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.

☐ Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .
Presence of run/riffle/pool complexes. Explain: .
Tributary geometry: **Pick List**
Tributary gradient (approximate average slope): %

(c) Flow:
Tributary provides for: **Pick List**
Estimate average number of flow events in review area/year: **Pick List**
Describe flow regime: .
Other information on duration and volume: .

Surface flow is: **Pick List**. Characteristics: .

Subsurface flow: **Pick List**. 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
- ☐ changes in the character of soil
- ☐ shelving
- ☐ vegetation matted down, bent, or absent
- ☐ leaf litter disturbed or washed away
- ☐ sediment deposition
- ☐ water staining
- ☐ other (list):
- ☐ the presence of litter and debris
- ☐ destruction of terrestrial vegetation
- ☐ the presence of wrack line
- ☐ sediment sorting
- ☐ scour
- ☐ multiple observed or predicted flow events
- ☐ abrupt change in plant community

☐ Discontinuous OHWM.[7] Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):
☐ High Tide Line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other (list):

☐ Mean High Water Mark indicated by:
- ☐ 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: .
Identify specific pollutants, if known: .

(iv) Biological Characteristics. Channel supports (check all that apply):
☐ Riparian corridor. Characteristics (type, average width): .
☐ Wetland fringe. Characteristics: .
☐ 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: acres
Wetland type. Explain: .
Wetland quality. Explain: .

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[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.

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

(b) General Flow Relationship with Non-TNW:
Flow is: **Pick List**. Explain: .

Surface flow is: **Pick List**
Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .
☐ 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 **Pick List** river miles from TNW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Flow is from: **Pick List.**
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: .
Identify specific pollutants, if known: .

(iii) Biological Characteristics. Wetland supports (check all that apply):
☐ Riparian buffer. Characteristics (type, average width): .
☐ Vegetation type/percent cover. Explain: .
☐ 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: **Pick List**
Approximately ( ) 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)

Summarize overall biological, chemical and physical functions being performed: .

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: .

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: Wetland 1 (0.99 acre), Wetland 2 (0.35 acre), Wetland 3 (0.22 acre), Wetland 4a (0.14 acre), Wetland 4b (0.12 acre) 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: 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

[8]See Footnote # 3.

directly abutting an 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: .

Provide acreage estimates for jurisdictional wetlands in the review area: 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: 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: .
☐ Other: (explain, if not covered above): .

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[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.***

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.

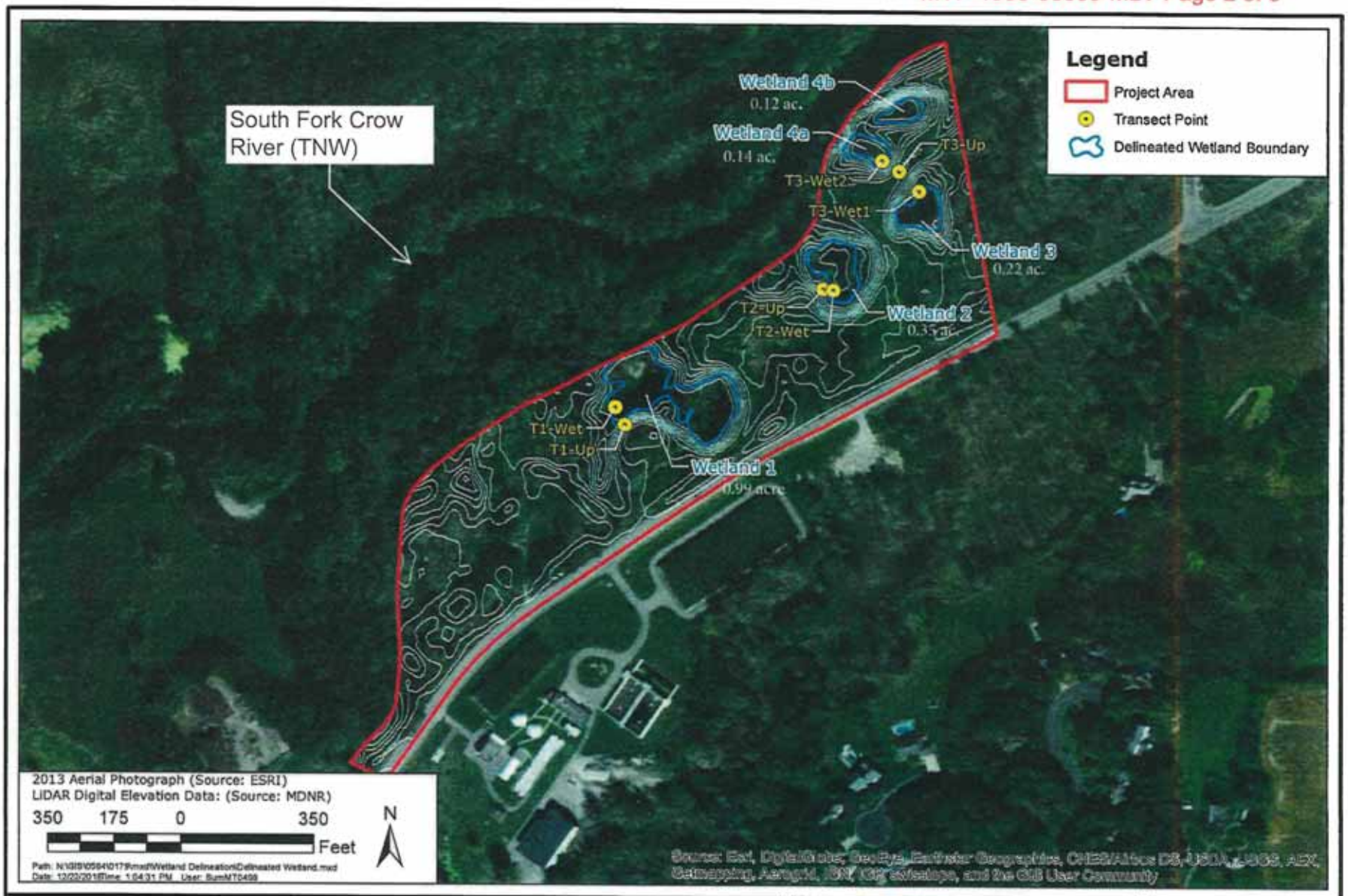
SECTION IV: DATA SOURCES.

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: Litfin Property Wetland Delineation Report prepared by Wenck Associates, dated January 2017.
- ☒ 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 MN-DELANO.
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Wright County Soil Survey.
- ☒ National wetlands inventory map(s). Cite name: USFWS NWI.
- ☐ State/Local wetland inventory map(s): .
- ☒ FEMA/FIRM maps: FEMA Flood Hazard Map.
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): Historicalinfo.com aerial imagery, 1937-2013.
  or ☒ Other (Name & Date): Wetland Delineation Report photos; report dated January 2017.
- ☒ Previous determination(s). File no. and date of response letter: MVP-1998-08089-MLV; January 14, 1999.
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☒ Other information (please specify): Wright County Geologic Atlas; Wright County Lidar; MVP-1998-08089 Application for Department of the Army Permt dated July 2, 1998, and Corps project file; South Fork Crow River and wetland basin water surface elevations, provided by City of Delano on April 26, 2017; Phase 1 and Phase 2 Environmental Site Assessments for Tax Parcels: 208200013100 and 208200013102, prepared by Wenck Associates, dated November 2014 and September 2015..

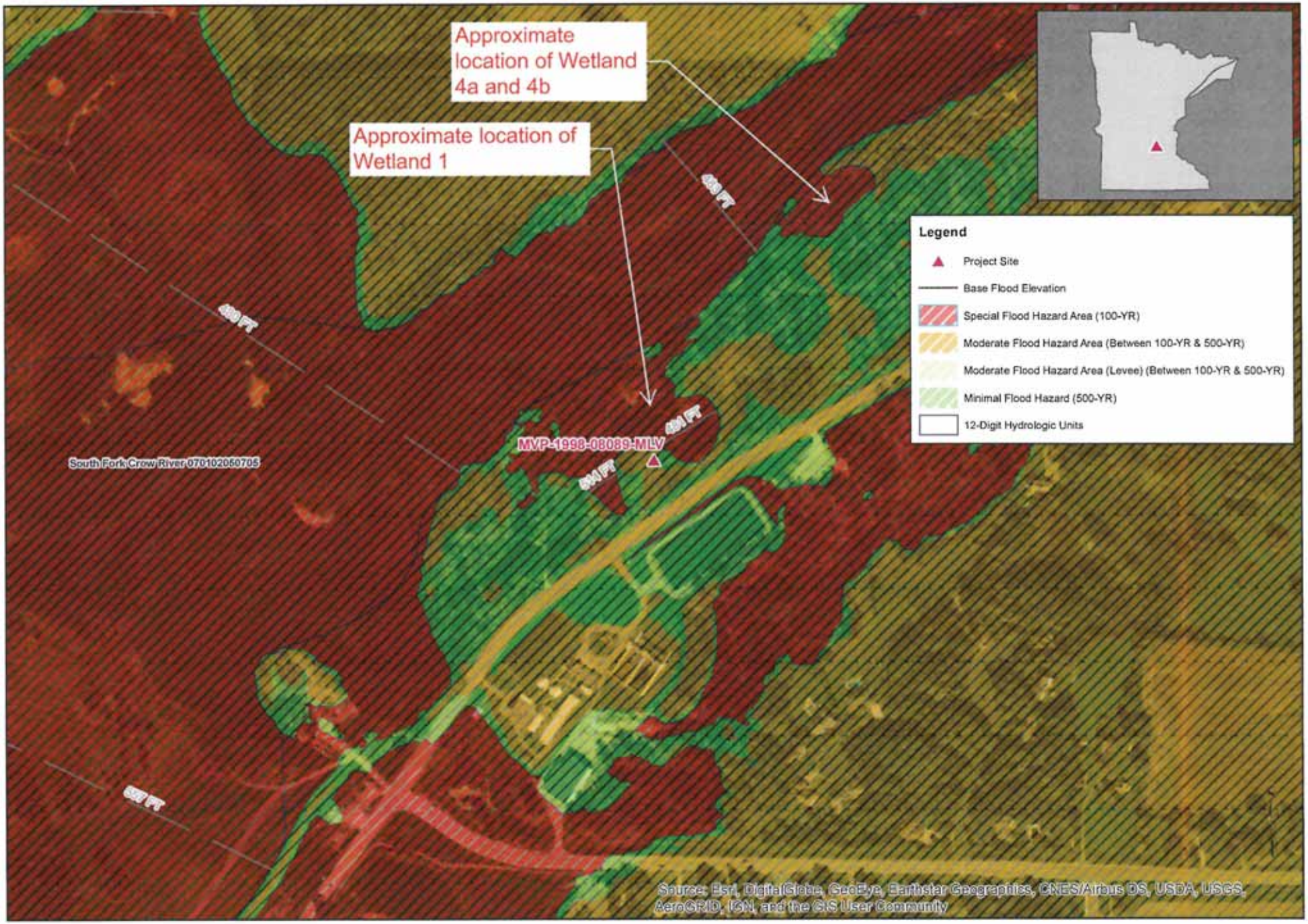
B. ADDITIONAL COMMENTS TO SUPPORT JD: .

CITY OF DELANO - LITFEN PROPERTY	WENCK ASSOCIATES Responsive partner. Exceptional outcomes.	JAN 2017
Site Location Map		Figure 1



CITY OF DELANO - LITFEN PROPERTY	WENCK ASSOCIATES Responsive partner. Exceptional outcomes.	JAN 2017
Delineated Wetlands		Figure 5

FEMA Flood Hazard Map: MVP-1998-08089-MLV, Saint Paul Litfin Property

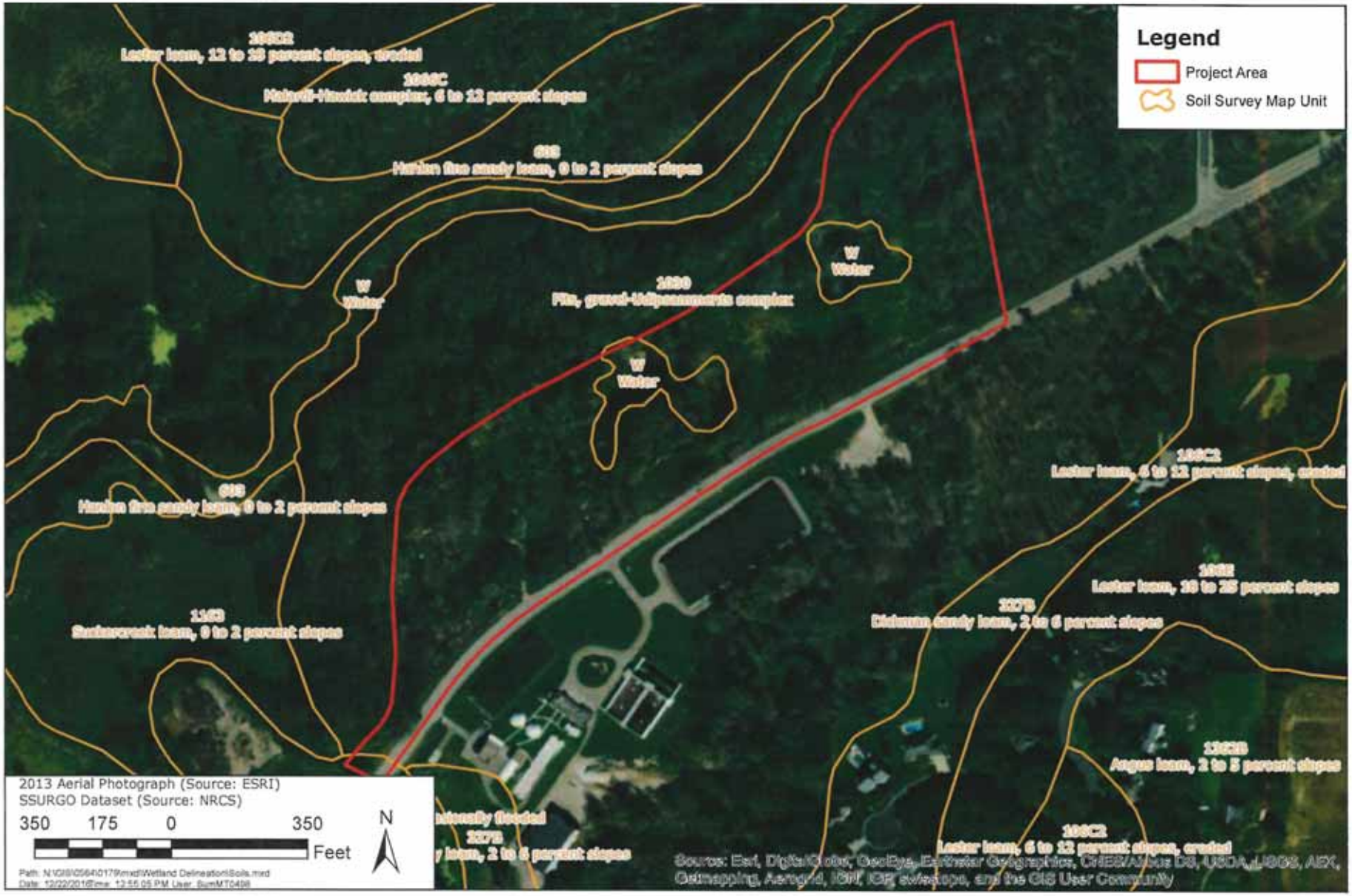


0 0.05 0.1 0.2 Miles

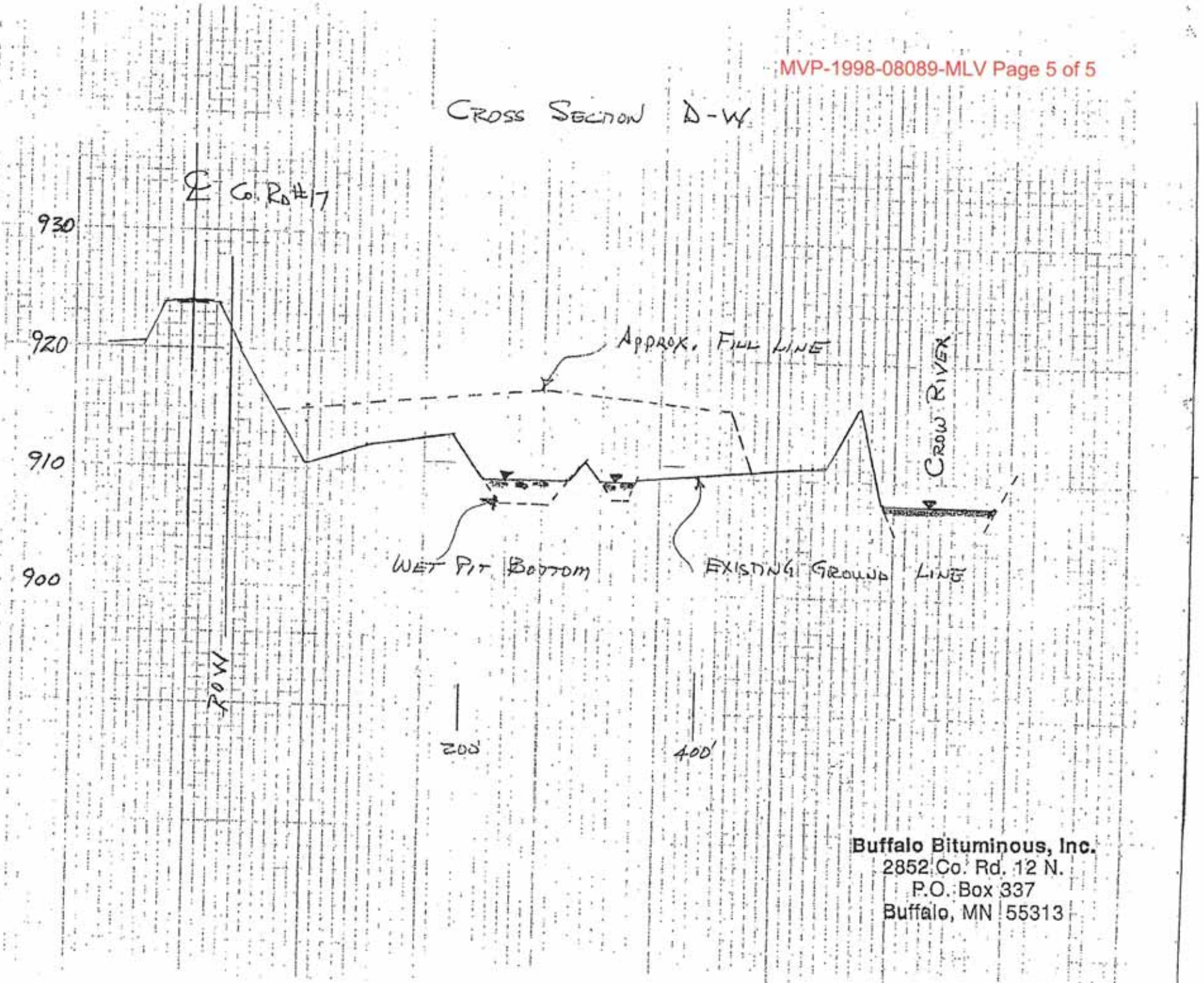
Scale: 1:5,000
Latitude: 45.05376
City: Delano

Longitude: -93.78231
County: Wright

Date: 3/2/2017
Prepared by: US Army Corps of Engineers, Regulatory
Projection: State Plane, Minnesota, South (NAD83)



CITY OF DELANO - LITFEN PROPERTY	WENCK ASSOCIATES Responsive partner. Exceptional outcomes.	JAN 2017
Soil Survey		Figure 4



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