

**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):** March 10, 2016

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** MVP-2016-00725-ARC

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: MN County/parish/borough: St. Louis City: Eveleth

Center coordinates of site (lat/long in degree decimal format): Lat. 47.43258° N, Long. -92.597348° W.

Universal Transverse Mercator:

Name of nearest waterbody:

Name of watershed or Hydrologic Unit Code (HUC): 4010201

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: 3/10/16

Field Determination. Date(s):

**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.

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There are no "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

**1. Waters of the U.S.:** N/A

**2. Non-regulated waters/wetlands (check if applicable):<sup>1</sup>**

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  
Explain: **The two wetlands assessed are approximately 0.034 acres and are surrounded by high gravel uplands and show no signs of connectivity to navigable waters of the United States. This is a previously excavated gravel mine area and LiDAR data suggests the wetlands lie at the bottom of the excavated pit with no outlets.**

**The wetlands within the review area are not known to be used by interstate or foreign travelers for recreation or other purposes; they do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and they are not known to be used for industrial purposes by industries in interstate commerce. The wetlands are geographically isolated and do not support a link to interstate or foreign commerce. Therefore the wetlands in the review area, are not waters of the United States.**

**SECTION III: CWA ANALYSIS**

**A. TNWs AND WETLANDS ADJACENT TO TNWs:** N/A

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

**C. SIGNIFICANT NEXUS DETERMINATION:** N/A

**D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):** N/A

**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):** N/A

<sup>1</sup> Supporting documentation is presented in Section III.F.

**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):

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: 0.034 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.**

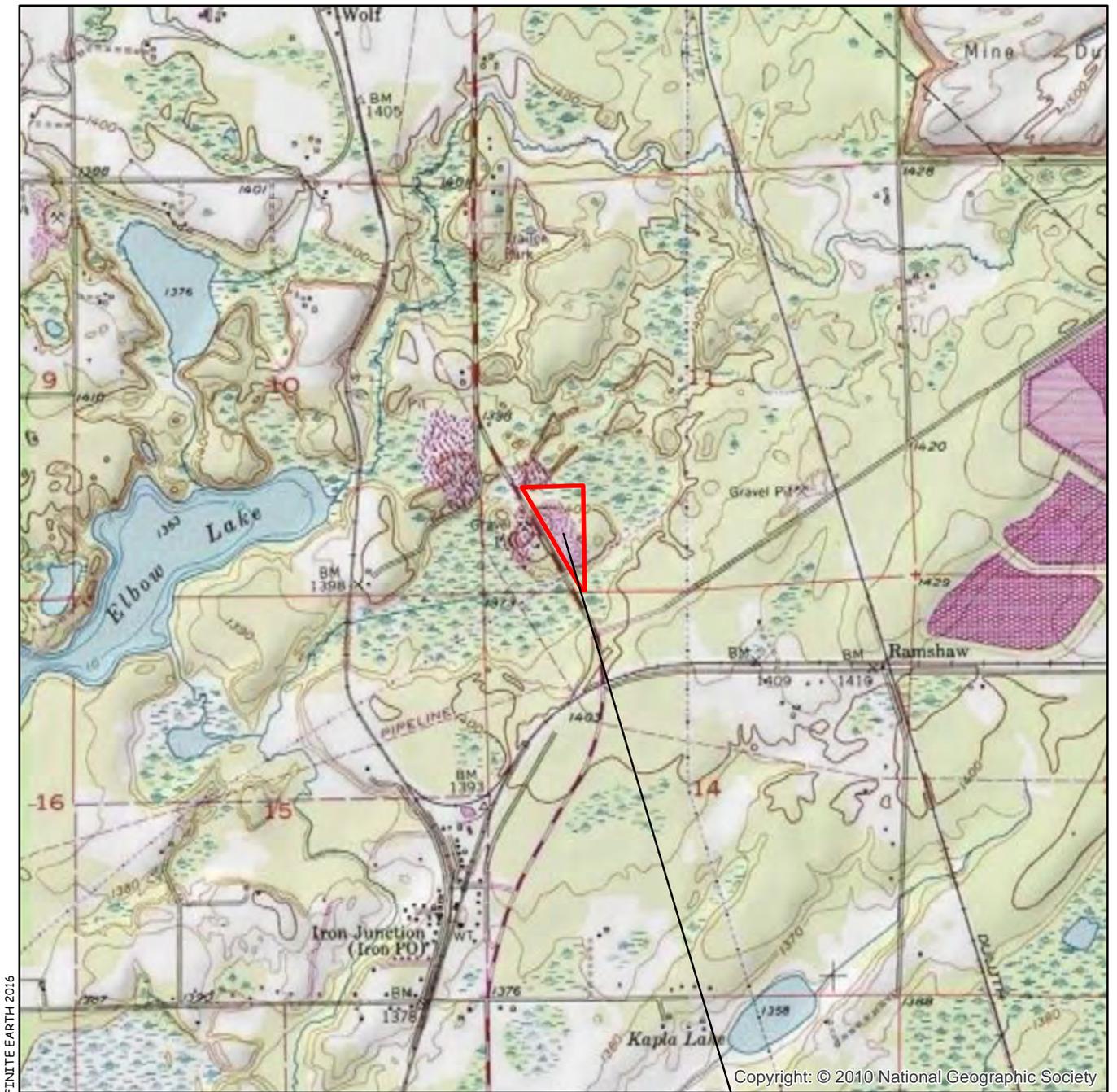
**A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **Ross Dudzik - MN Power**
- 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:
- USDA Natural Resources Conservation Service Soil Survey. Citation:
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is:          (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): **MnGEO WMS service (multiple photos)**  
or  Other (Name & Date):
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): **LiDAR elevations acquired 2007-2012**

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** The two wetlands are located at the bottom of a previously excavated pit area previously used for the gravel production industry. We reviewed available desktop resources such as aerial photography, LiDAR derived elevation models and contours, flow path information, and stream and wetland mapping to make an approved isolated determination of the wetlands. We determined that these wetlands are depression area in the landscape and have no outlet, therefore there is no hydrologic connection between the wetlands and a Navigable water of the U.S.

The wetlands do not support a link to interstate or foreign commerce because they are not known to be used by interstate or foreign travelers for recreation or other purposes; do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and are not known to be used for industrial purposes by industries in the interstate commerce. The wetlands were determined to not be jurisdictional

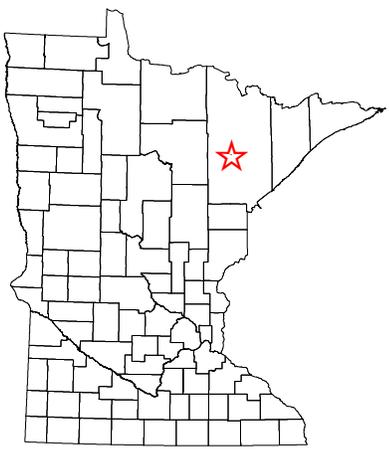
under the CWA because the wetlands lacked links to interstate commerce sufficient to serve as a basis for jurisdiction.



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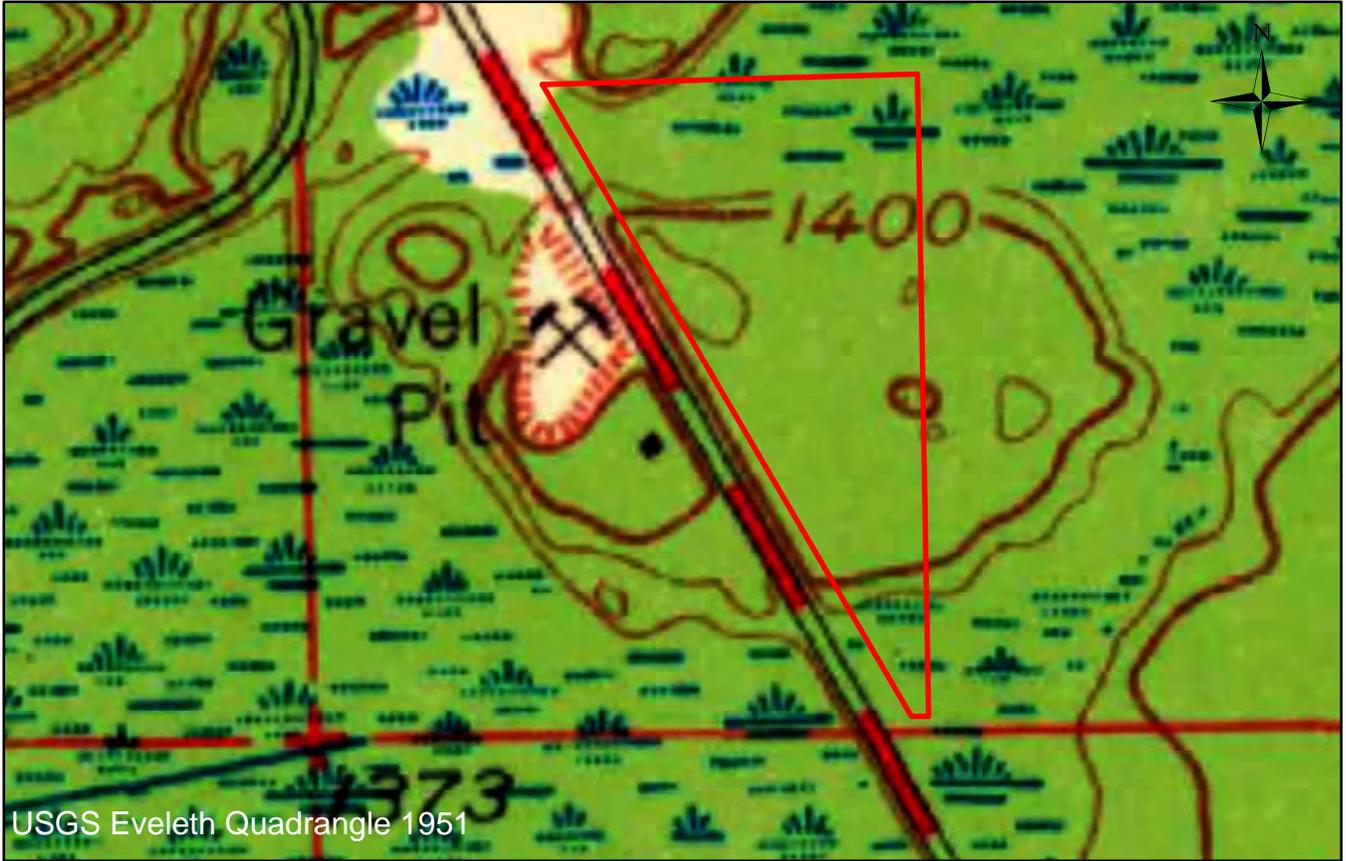
MNGEO MPCA MDH



Property Location

2016-00725-ARC  
Drawing 1 of 5

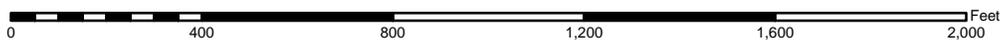
Past Mining Excavation Symbols - Both Sides of Highway 7



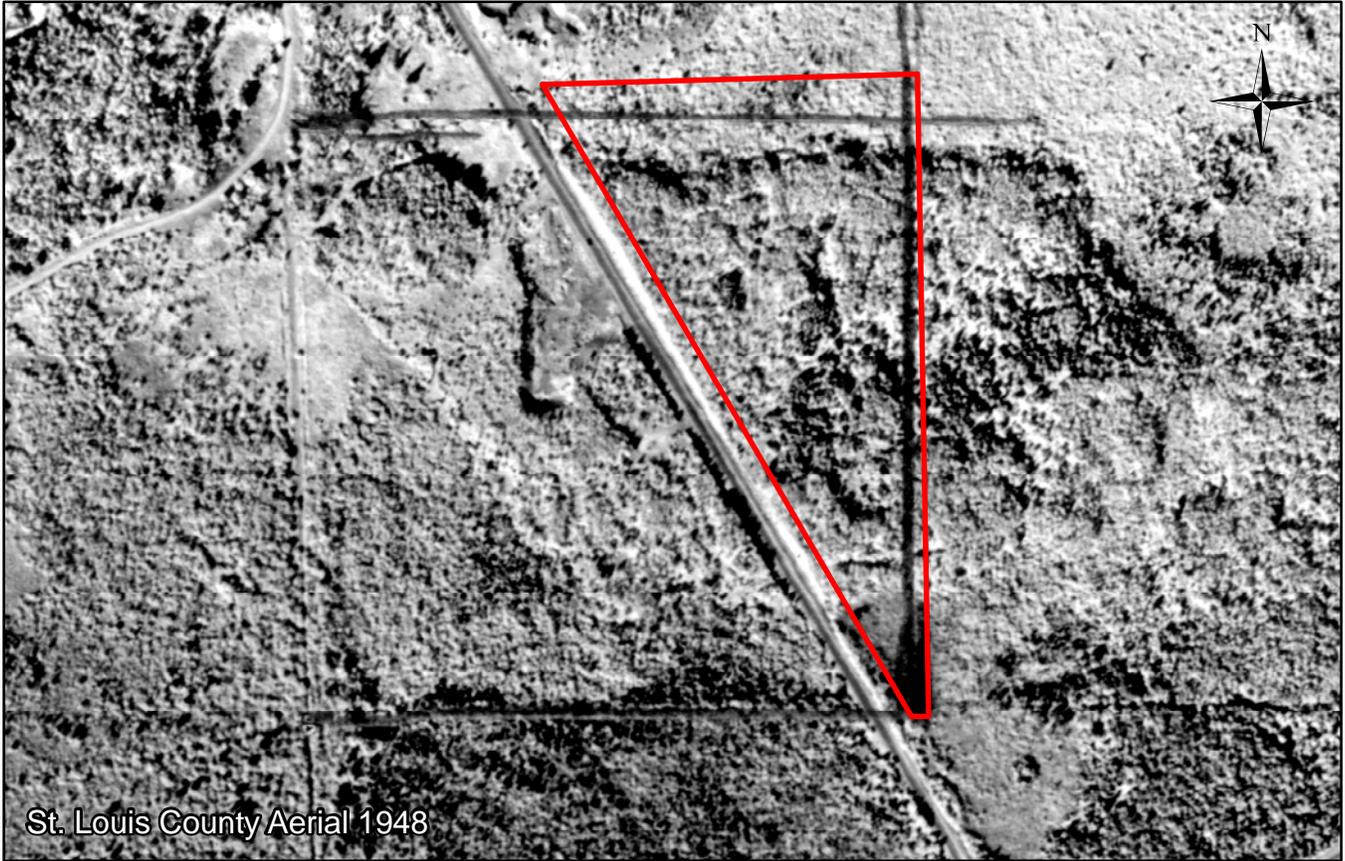
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MNGEO USGS



Past Mining Excavation - Both Sides of Highway 7



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MNGEO SLC



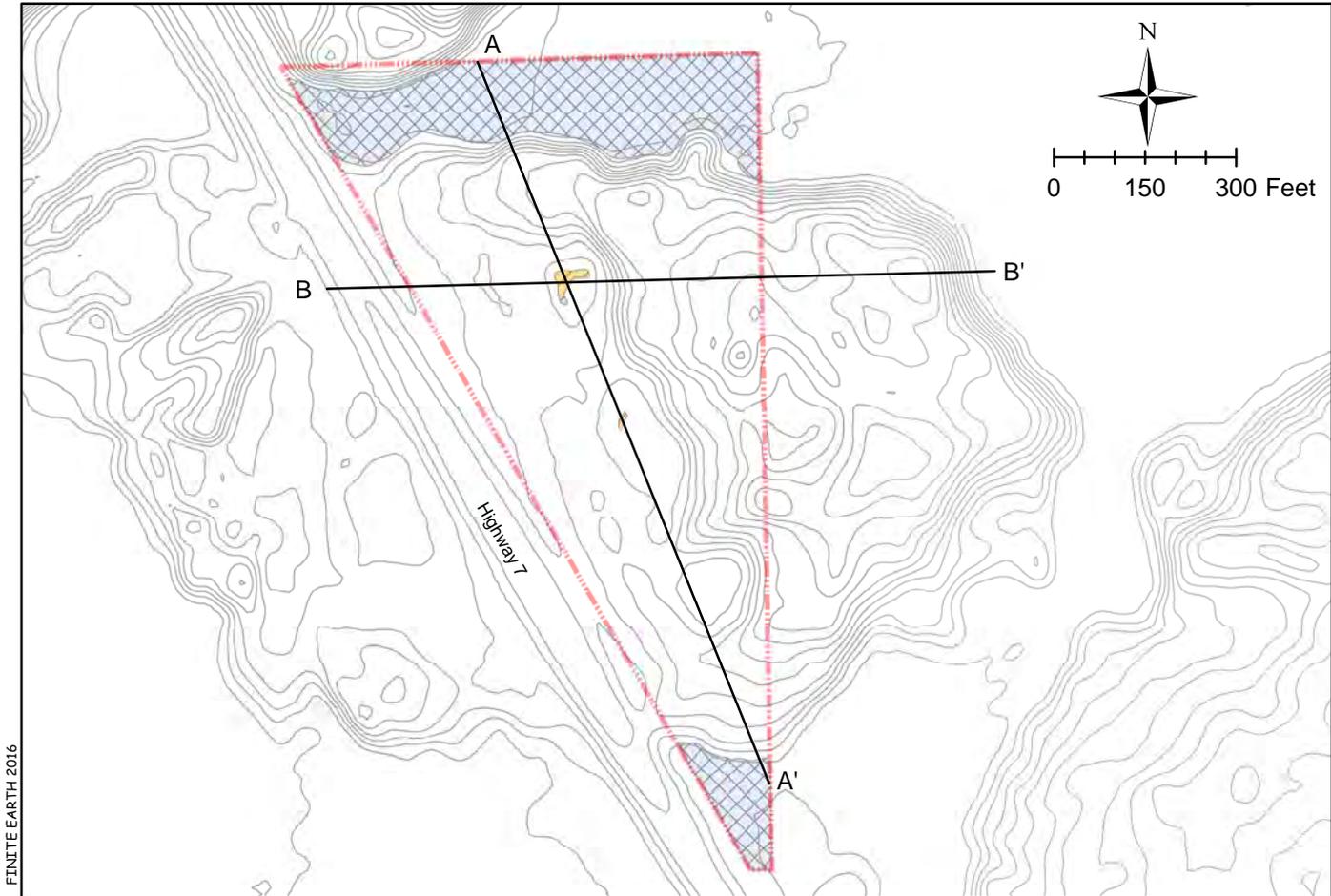
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Drawing 4 of 5

-  APPROXIMATE PARCEL BOUNDARY
-  WETLANDS, TYPE 7 (115,418 Sq Ft)
-  DISTURBED ISOLATED WET AREAS (1,507 Sq Ft)



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