US Army Corps of Engineers
St Paul District

SPONSOR: Shakopee Mdewakanton Sioux Community

Public Notice

ISSUED: September 4, 2015
EXPIRES: October 5, 2015

REFER TO: 2015-01578-RMM

SECTION: 404 - Clean Water Act

1. WETLAND COMPENSATORY MITIGATION BANK PROPOSAL

2. SPECIFIC INFORMATION.

SPONSOR'S ADDRESS: Shakopee Mdewakanton Sioux Community
2330 Sioux Trail Northwest
Prior Lake, Minnesota 55372

SPONSOR'S AGENT: Shakopee Mdewakanton Sioux Community
c/o Mr. Shawn Kelley
2330 Sioux Trail Northwest
Prior Lake, Minnesota 55372

PROJECT LOCATION: The project site is located in Section 30, Township 115 N., Range 22 W., Scott County, Minnesota. Latitude 44.73716, Longitude -93.50531, as shown on the attached figures labeled MVP-2015-01587-RMM Page 1 of 11 through Page 11 of 11.

BANK SERVICE AREA: The proposed bank service area is the Lower Minnesota River (Bank Service Area 9)].

DESCRIPTION OF PROJECT: The sponsor is proposing to develop the Dakota Slough Wetland Bank. The proposed bank site is approximately 53.13 acres in size, including upland buffer areas.

Current land use, including adjacent properties: Areas adjacent to the site can be characterized as low- to medium-density residential areas intermixed with agricultural fields and some commercial infrastructure. Lake O'Dowd is the prominent local water feature and is roughly 400 feet to the northwest separated by a fairly steep, wooded hillside. Lake O'Dowd is the receiving water body through a 20-foot wide drainage easement that is included in the conservation easement for this site. Other wetlands nearby are mostly Type 3 and 4 cattail marshes indicating disturbance by commercial and residential development and agriculture. One larger wetland to the southwest has a decent native plant community, including a shrub component, but it is also disturbed by invasive species.

The proposed bank site can be characterized as an area of transition from the Tribal agricultural lease to permanent conservation in the form of this proposed wetland bank. The last few years have been problematic. The primary means of conveying water off site was an electronic pump and lift station assembly. The pump and/or pipe infrastructure malfunctioned a few years ago, most likely sometime before the 2013 growing season. Since its failure, water has been retained at the lower elevations of the bank site. Problems and/or miscommunications with the Tribal agricultural lessee resulted in this area going fallow during most of the 2014 and into the 2015 growing season. Lack of tillage and water discharge has allowed some areas at the site to revert back to wetland. Cattail

(*Typha sp.*), reed canary grass (*Phalaris arundinacea*), and some native wetland plants (e.g. pickerelweed (*Pontederia cordata*), smartweeds (*Persicaria sp.*)) have become established. The upland areas had largely volunteered with annual and perennial weed species. Due to these on-going issues the Tribal government was prompted to act.

In late winter 2015, the Tribal government authorized excavation and installation of an Agri-drain In-line water control system within the drainage easement to Lake O'Dowd. The rationale for removing the existing lift station pump assembly and installing a new system is as follows: 1) The lift station pump assembly was determined to be non-functioning and not cost-feasible to replace due to its age and improper installation; 2) The Tribe needed to be able to drain enough water so the site could remain in agricultural production for 2015 if that decision was made; 3) The new drainage infrastructure could double as water drainage for agriculture production, but also manage water levels for wetland restoration purposes in the future.

During installation, workers found, disconnected, and plugged an underground concrete drain tile connected to the old drainage infrastructure. It is possible that there are additional drain tiles but locations are unknown at this time besides what has been discovered in the alta survey and other possible locations (e.g. northwest corner of the perched wetland, south of the large main basin). If additional drain tiles are found at any location, they will be rendered inoperable. Part of the reason that the area is difficult to farm even with human water conveyance systems is because topographic characteristics land lock water on the site which makes it ideal for wetland restoration and difficult to farm.

Topographic characteristics may explain why a majority of the site has hydric soils. The primary soil type for the bank site is Houghton muck, and secondarily, Dundas silt loam. Webster-Glencoe silty clay loam soils occupy the edges of Houghton muck and Dundas silt loam.

As of June 26th, 2015 upland areas at the site have been tilled twice and planted in annual oats to stabilize the soil and reduce competition from annual and perennial weeds. Only the lowest areas of the site remain under water or have exposed mudflats where our agricultural equipment could not get to. No wetland delineations or determinations by regulatory authorities have been made to date. The proposed bank site is entirely encompassed in the extreme southeast boundary of the Minnesota River – Shakopee minor watershed.

Modifications proposed to restore, establish, enhance and/or preserve wetlands on the bank site: The overall project goal is to restore the site to a highly functional, diverse wetland ecosystem. The process to restore hydrology is already underway in terms of removing the old drainage infrastructure and installing the Agri-drain In-line water control system. However, excavation work is planned to further restore hydrology to the site (e.g. two-track removal, seeking out drain tile, berm construction). Once the excavation work is complete, the only anticipated means of water conveyance from the site will be through the Agri-drain water control structure. Managing the water levels with the Agri-drain system is done by adding or removing stop logs within the control structure. This system will allow the sponsor to manipulate water levels to better manage vegetation and hopefully increase plant diversity. Plant diversity is a critical driver for wetland function and value and the sponsor intends on managing the site to enhance plant diversity to the best of their ability.

The sponsor modeled the wetland types and boundaries based on LiDAR-derived elevation and contour data. The wetland types were made by converting the 1-foot polyline contours into polygons. The resulting lines within each wetland polygon represent a 1-foot drop in elevation. At max pool, the large basin would be roughly 6-feet deep and the perched basin to south would be roughly 2-feet

deep. However, the sponsor edited the wetland polygons at the two-track road location to reflect the anticipated road removal before restoration can begin. Once removed, the two basins should

connect and the sponsor modeled the wetland connection based on existing topography and best professional judgment. Based on the wetland modeling in ArcGIS, some of the Type 2 wetlands occur outside of the easement boundary and off-reservation land. It's a small area, but the main issue is that this wetland restoration could potentially impact neighboring properties. These areas were removed from calculation of wetland credit. The neighboring property to the north that may be affected by the wetland restoration is owned by a tribal community member and the sponsor intends on working with the landowner to discuss extending the project boundary (not the easement) to utilize the agricultural field on the land and potentially adding approximately 5.4 acres upland buffer. The sponsor also intends on extending the upland buffer area on the east side of the easement up to the Tribal boundary which would add another 6 acres of buffer area. The neighboring property on the southeast side of the project site that may be affected by the wetland restoration is owned by private landowners. For both affected properties, a flowage easement must be obtained prior to banking approval according to feedback received from BWSR representatives.

Long-term management of the site: The established bank site would be managed by the sponsor or their successors in property ownership. The site would be adaptively managed for development of herbaceous communities dominated by native species common to the bank area. Credit sales would be tracked by sponsor and reported to the state as required by state law. The reported credit releases and sales would be tracked on both Corps and state databases using ledger data supplied by the state. By state law, long-term management of the property would be the responsibility of the landowner and the sponsor until all released credits have been debited. After all credits are debited, long-term management obligations would fall to the landowner under state law. Additional protections and management limitations would be spelled out in both a conservation easement and in an approved bank plan.

The project would restore approximately 29 acres of wetlands with an additional 24 acres of restored upland buffer. The proposed wetland types would consist of 1.46 acres of seasonally flooded (Type 1), 7.58 acres of fresh (wet) meadow (Type 2), 10.72 acres of shallow marsh (Type 3), and 9.22 acres of deep marsh (Type 4) wetland communities.

COORDINATION WITH RESOURCE AGENCIES: This project has been coordinated with the following members of the Interagency Review Team (IRT) and other resource agencies: The U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Scott County Soil and Water Conservation District, Board of Water and Soil Resources, Minnesota Department of natural Resources.

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. A copy of the full prospectus submitted by the Sponsor is available to the public for review upon request.

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 Ryan Malterud at the St. Paul office of the Corps, telephone number (651) 290-5286.

To receive Public Notices by e-mail, go to: http://mvp-extstp/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 bank sponsor or are known to exist in the action area. However, Scott County is within the known historic range for the following Federally-listed species:

Northern Long-Eared Bat	Hibernates in caves and mines – swarming in surrounding wooded areas in autumn. Roosts and forages in upland forests during spring and summer.

This notice 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.

The aquatic resources, if any, within the boundaries of the proposed mitigation bank are 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 within the boundaries of the proposed mitigation bank 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 a an approved jurisdictional determination is completed for this mitigation bank, 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.

6. HISTORICAL/ARCHAEOLOGICAL.

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.

7. 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.

Chad Konickson,
Chief, Southwest Section

Enclosures

Figure 1. Site Location Map

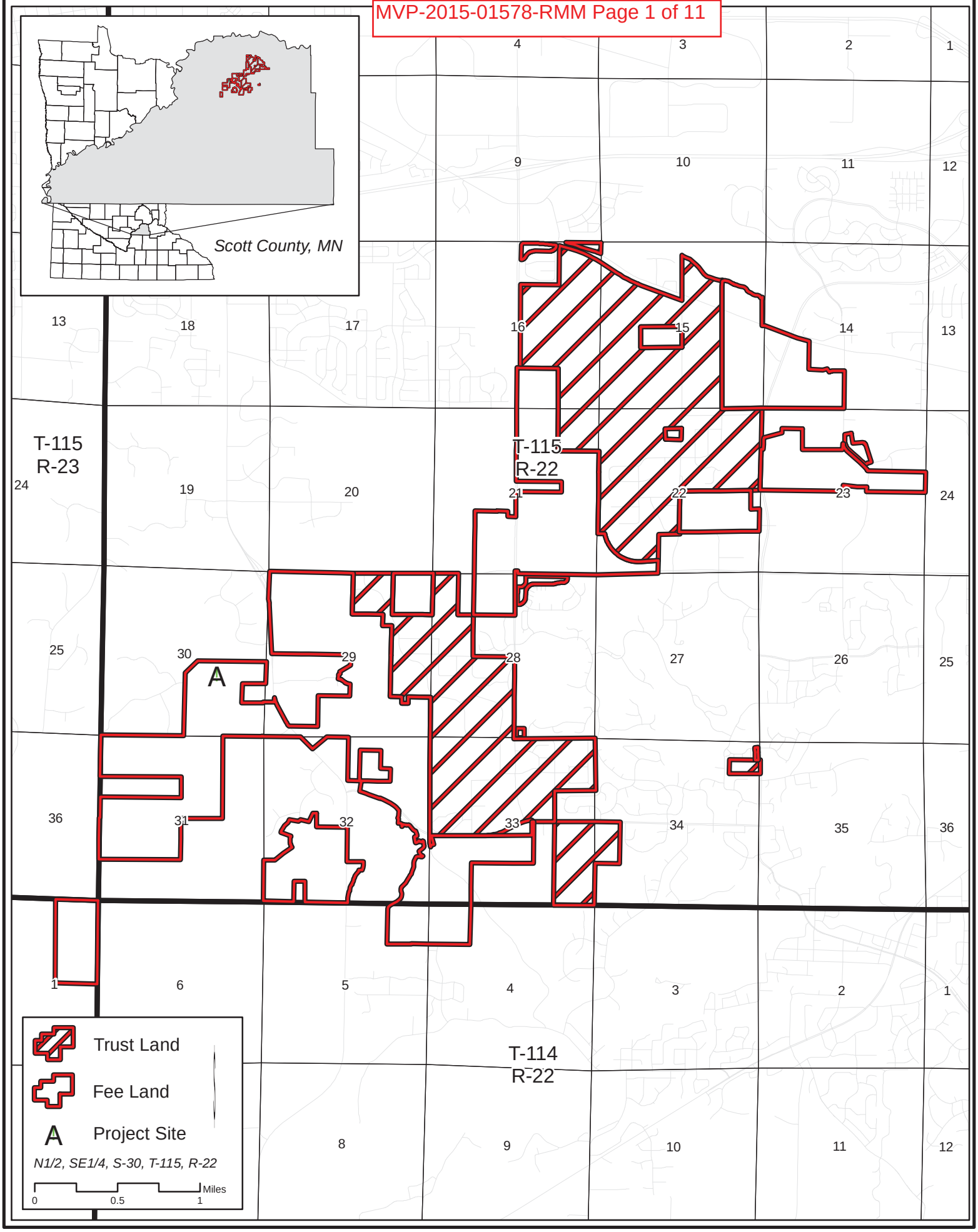

Figure 2b. Proposed Easement Public Access Map

Figure 3b. Existing Conditions - Wetlands Map

Figure 3c. Existing Conditions - Vegetation Map

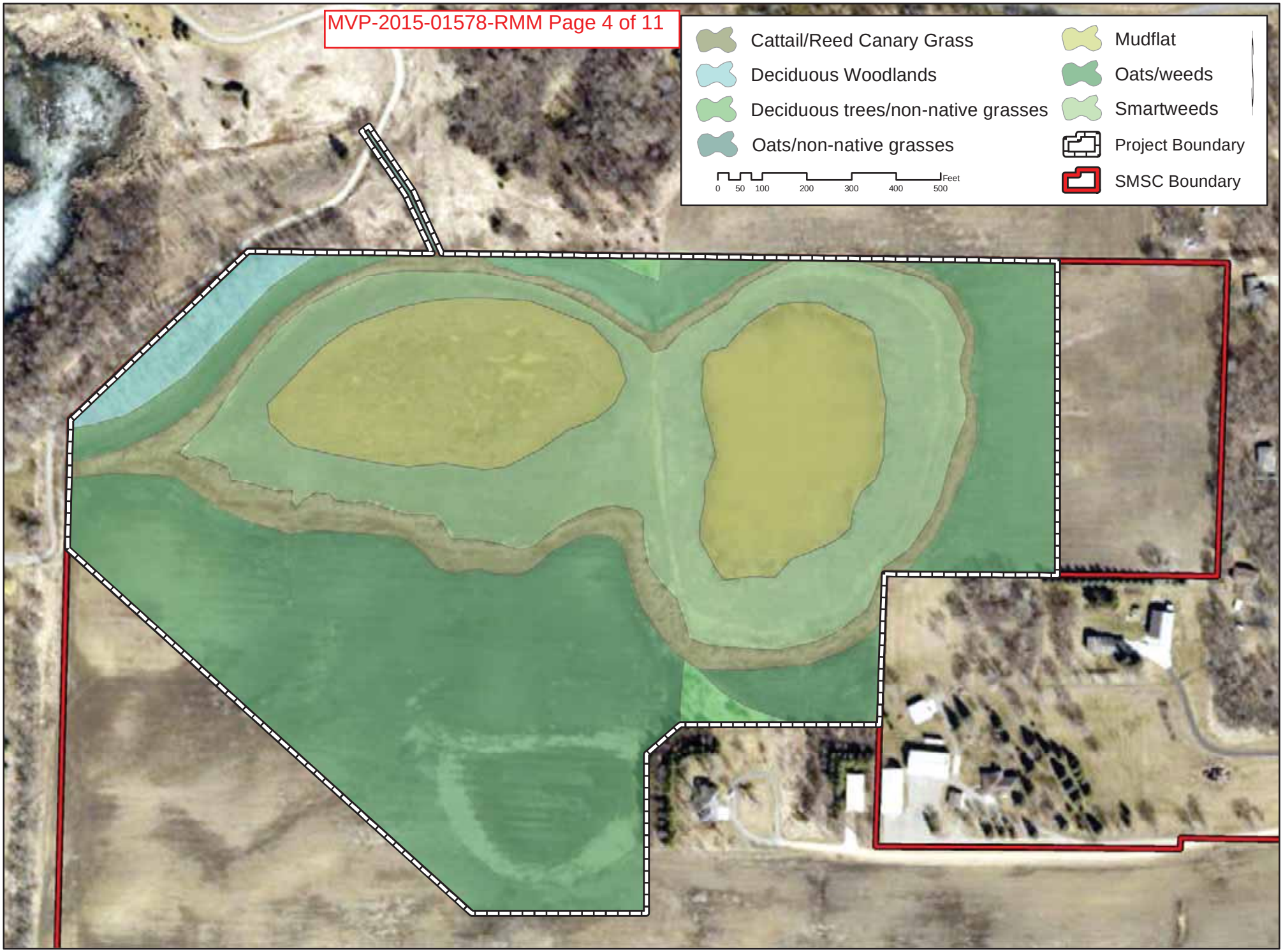

Figure 3e. Existing Conditions - Topographic Map

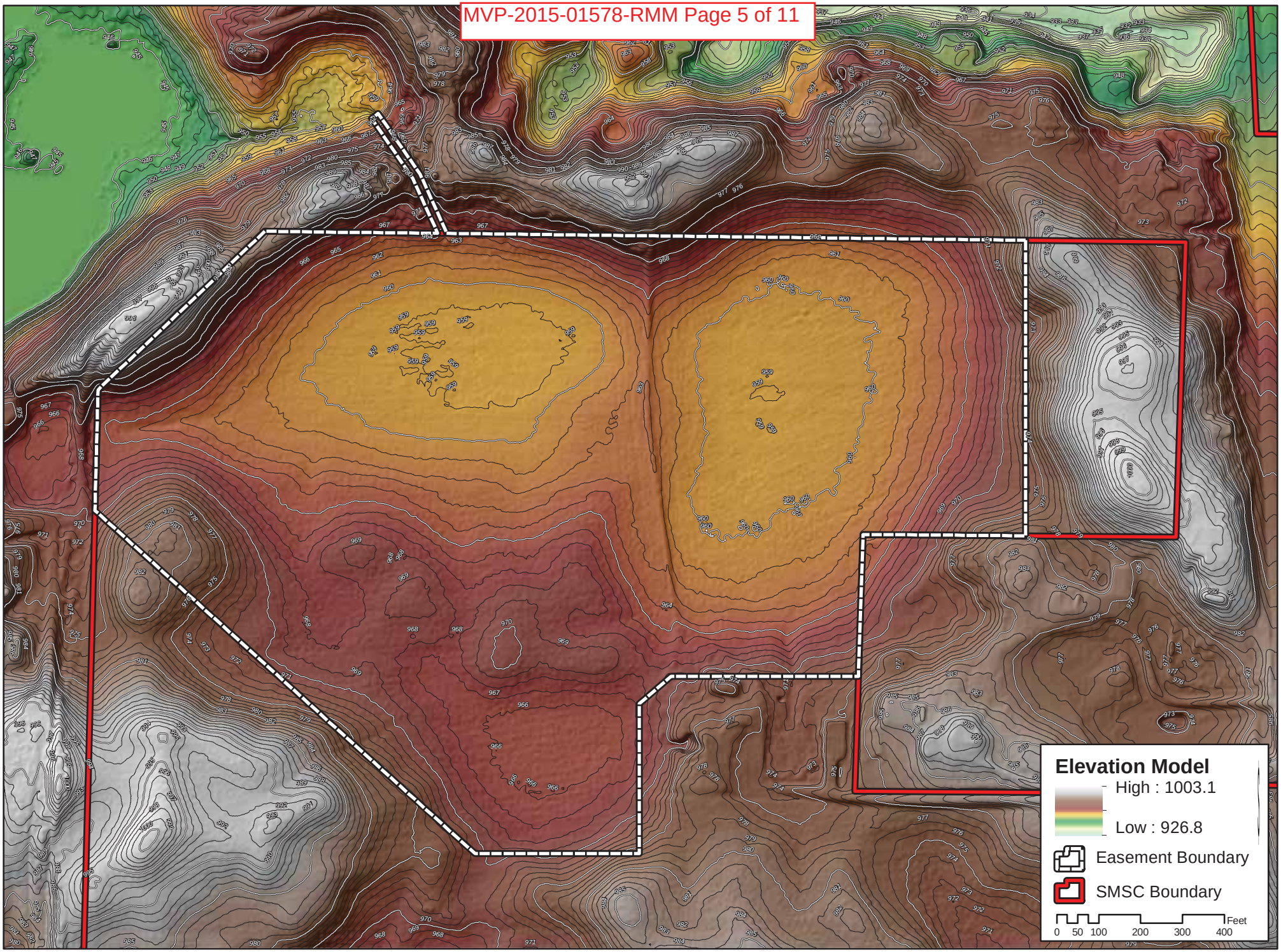

Figure 4. Web Soil Survey Map

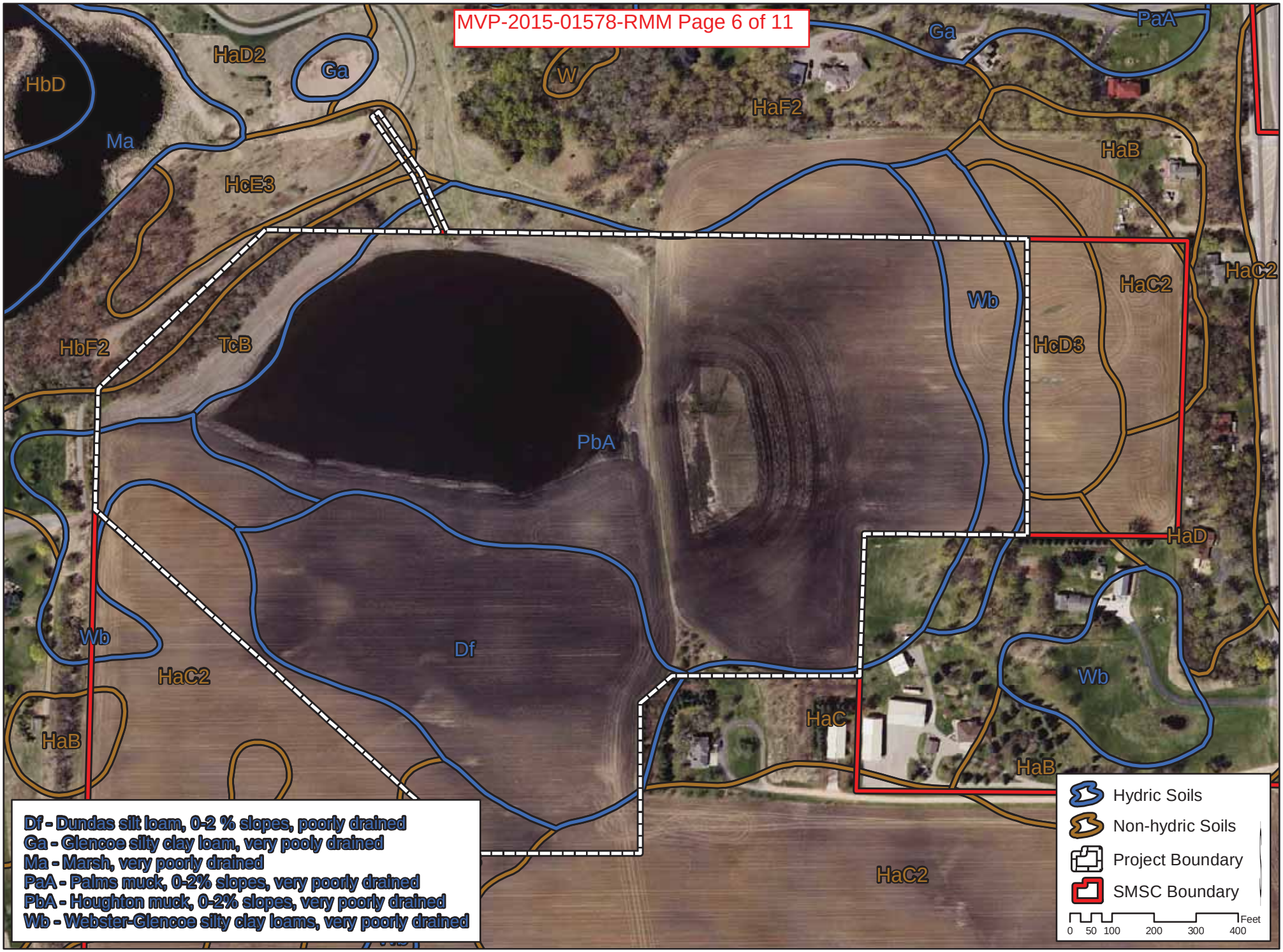

Figure 5. Minor Watershed Map

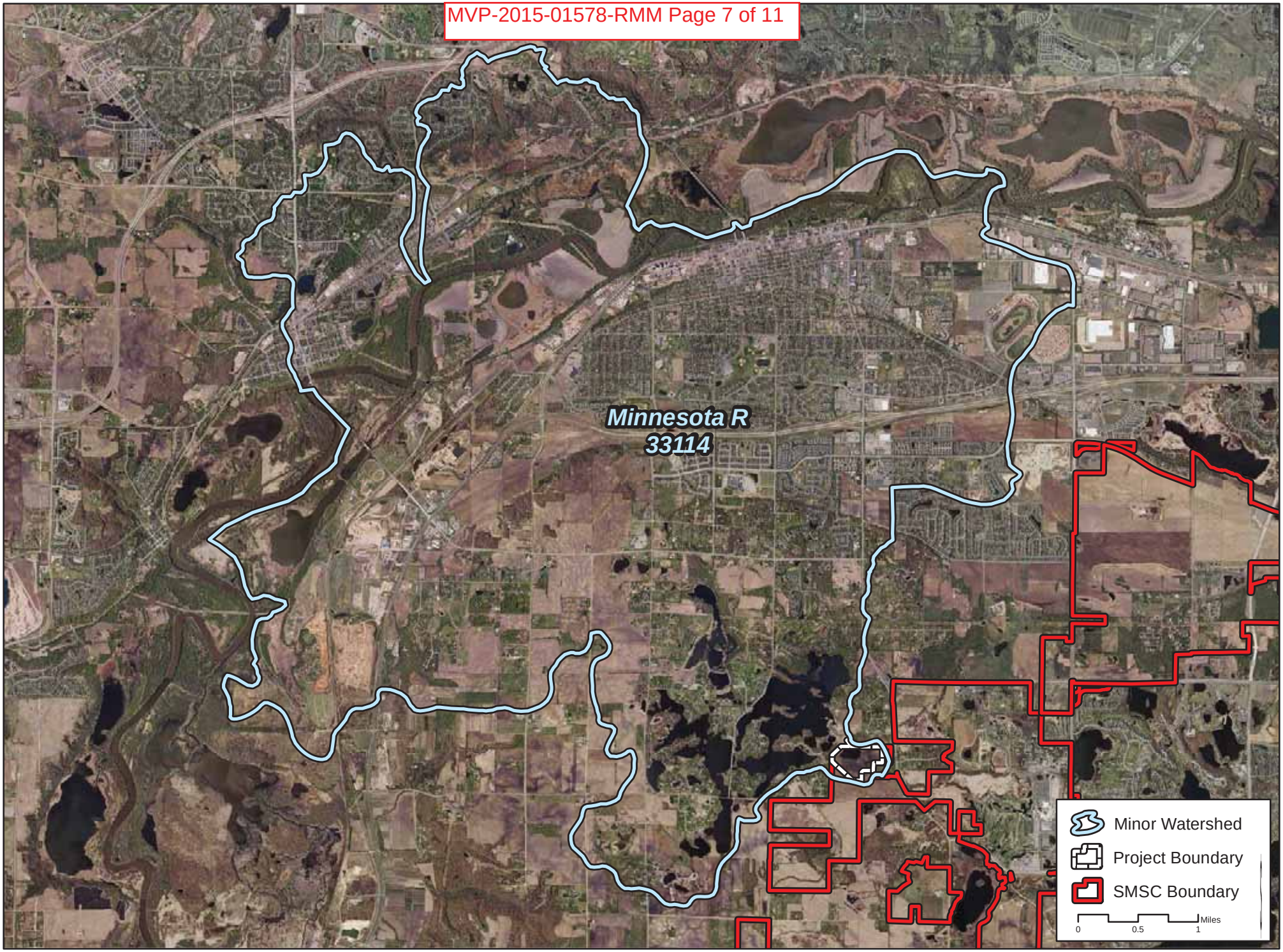

Figure 7. Credit Area Map

Figure 8. Proposed Vegetation Conditions Map

Figure 9. Concept Plan Map

Figure 10. Monitoring Plan Map