

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 30, 2020

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Virginia-Eveleth-Gilbert School Site; MVP-2019-01769-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. 47.47711° N, Long. -92.52089° 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: February 11, 2020
☒ Field Determination. Date(s): August 8, 2019

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):¹

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: **The wetlands in the review area (Wetlands 15, 16, 21, 23 and 28) are located along Progress Parkway, as shown on the enclosed figures labeled MVP-2019-01749-ARC Figures 1-9 of 9, within the City of Eveleth, Minnesota. The landscape along Progress Parkway consists of steep gradients to the east, leading up-slope to the Laurentian Divide, and down-slope gradients to the north and west. Wetlands 15, 16, 21 and 23 are located in low topographical areas within their reflective drainage areas. These low areas collect precipitation following rain events before leeching into the water table. Wetland 28 is small in size and is located on a flat topographical area near a highly disturbed vehicle turn-a-round containing a storage shed. This wetland collects precipitation runoff from gravel turn-a-round area.**

The wetlands in the review area are stagnant wetlands that are surrounded by uplands. They collect water during precipitation events, filtering the water directly to the water table lacking any subsurface flow to another aquatic resource. The LiDAR derived elevation models show the wetlands are located within relatively flat contour areas, and do not display outlets, swales, pipes, or other means to connect the wetlands to a tributary. Based on the desktop resources and the Eveleth-Gilbert-Virginia School Sites Delineation Report dated July 2019, the wetlands do not have a surface or subsurface connection to a downstream tributary.

A site visit was made on August 8, 2019 and all wetland boundaries were ground truthed and evaluated. We also reviewed available desktop resources such as aerial photography, LIDAR derived elevation models and contours, flow path information, and stream mapping to make an approved isolated determination of the 3.18 acres of wetlands. We determined that the wetlands have no hydrologic or ecologic connection to a Navigable Water of the U.S.

¹ Supporting documentation is presented in Section III.F.

The wetlands within the review are not known to be used by interstate or foreign travelers for recreation or other purposes; and 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 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

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: Wetlands 15, 16, 21, 23 and 28 total 3.18 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: Short Elliot Hendrickson, Inc., Kimley-Horn and Associates, Inc.
- ☒ 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: 1:9,028 USGS National Map
- ☒ 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)

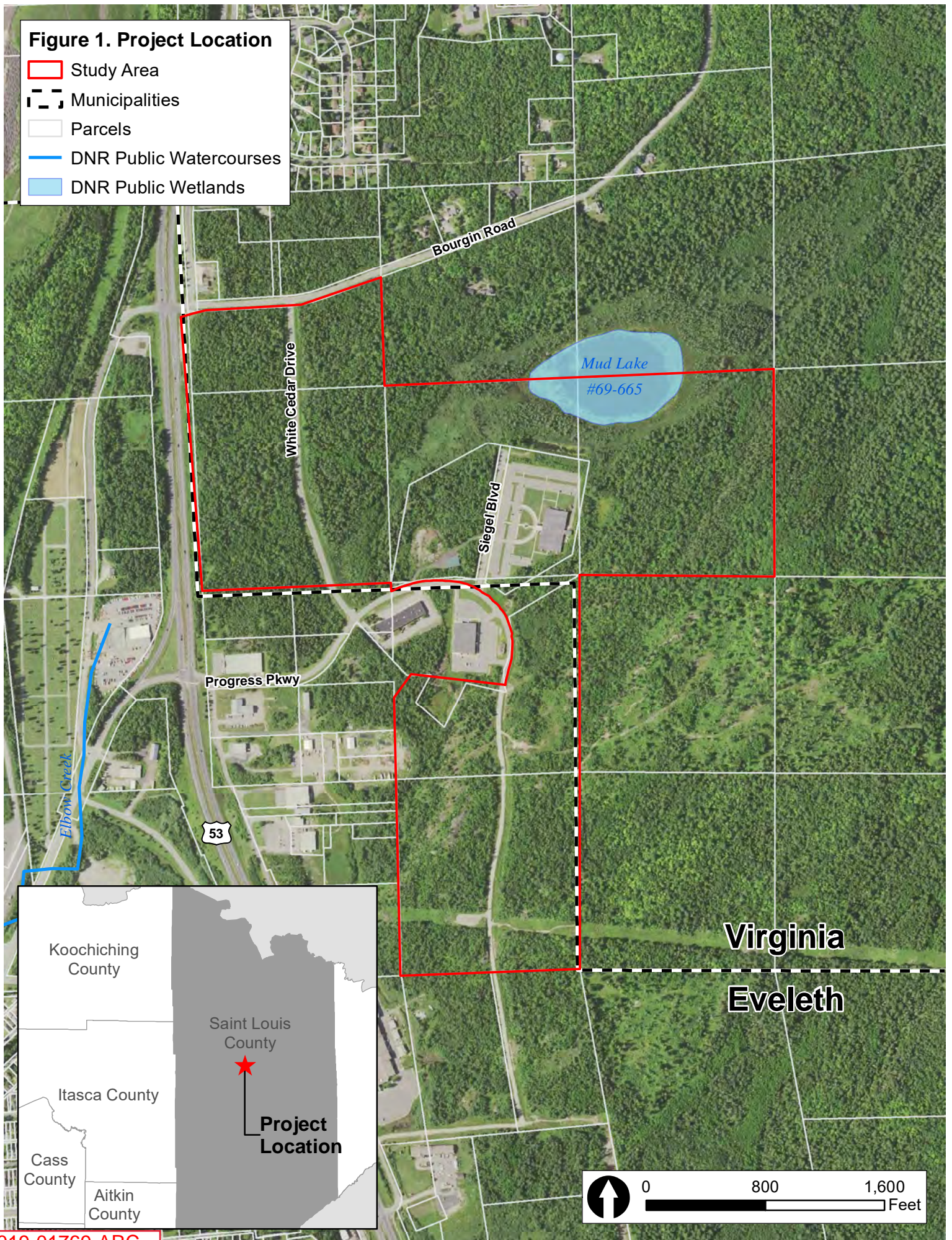
- ☒ Photographs: ☒ Aerial (Name & Date): MnGEO WMS service (multiple photos)
or ☐ Other (Name & Date):
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): MNTOPPO, LiDAR Derived Elevation Models

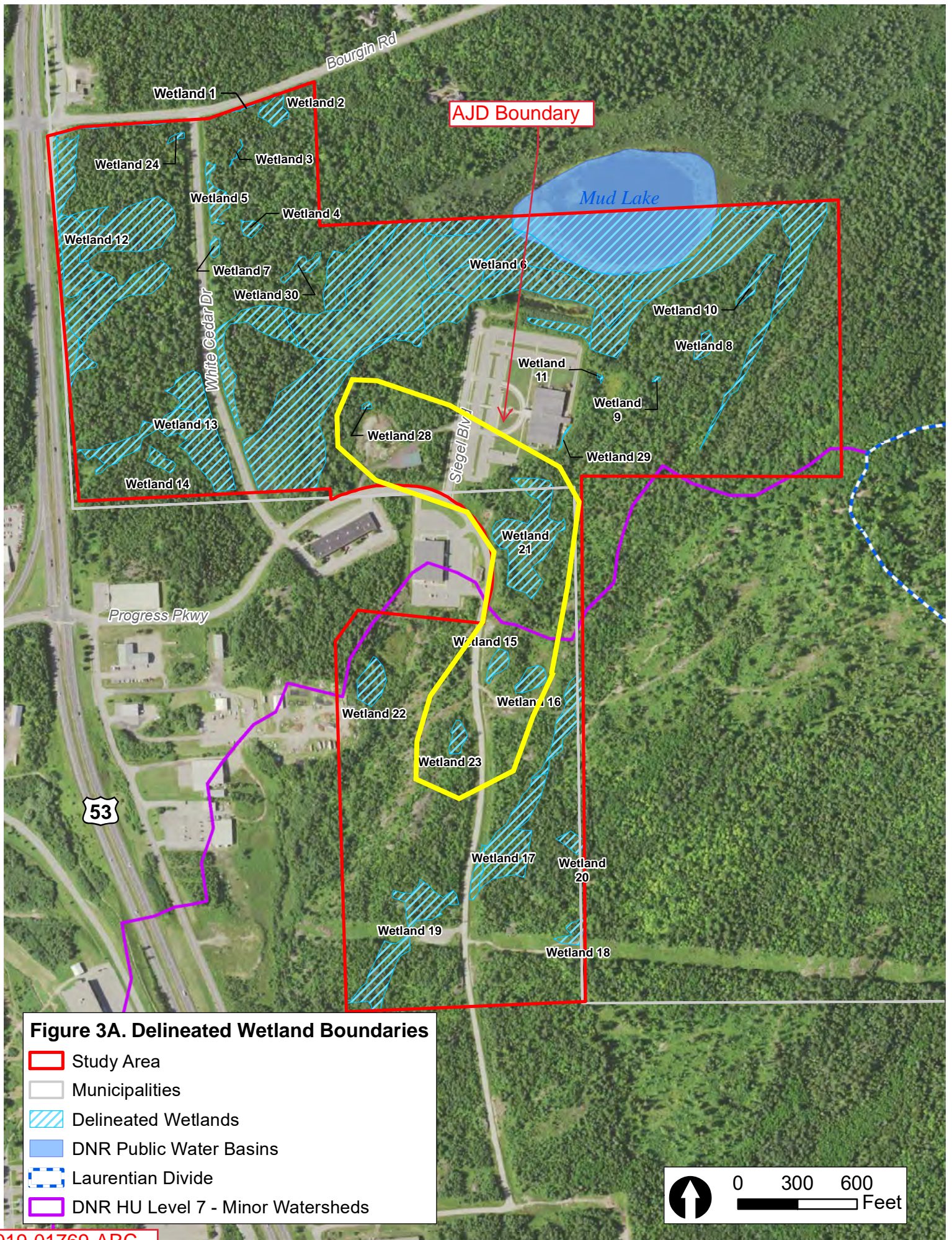
B. ADDITIONAL COMMENTS TO SUPPORT JD: The 3.18 acres of wetlands in the review area formed over time due to being the lowest topographical locations within their respective drainage areas located west of the Laurentian Divide in Eveleth, Minnesota. Corps staff performed a site visit on August 8, 2019 and reviewed available desktop resources such as aerial photography, LiDAR derived elevation models and contours, flow path information, and stream mapping to aid in making an approved isolated determination of the wetlands.

Based on all available information, we determined that the wetlands do not contain a hydrologic connection to a Navigable Water of the U.S. and are not jurisdictional under the Clean Water Act.

Figure 1. Project Location

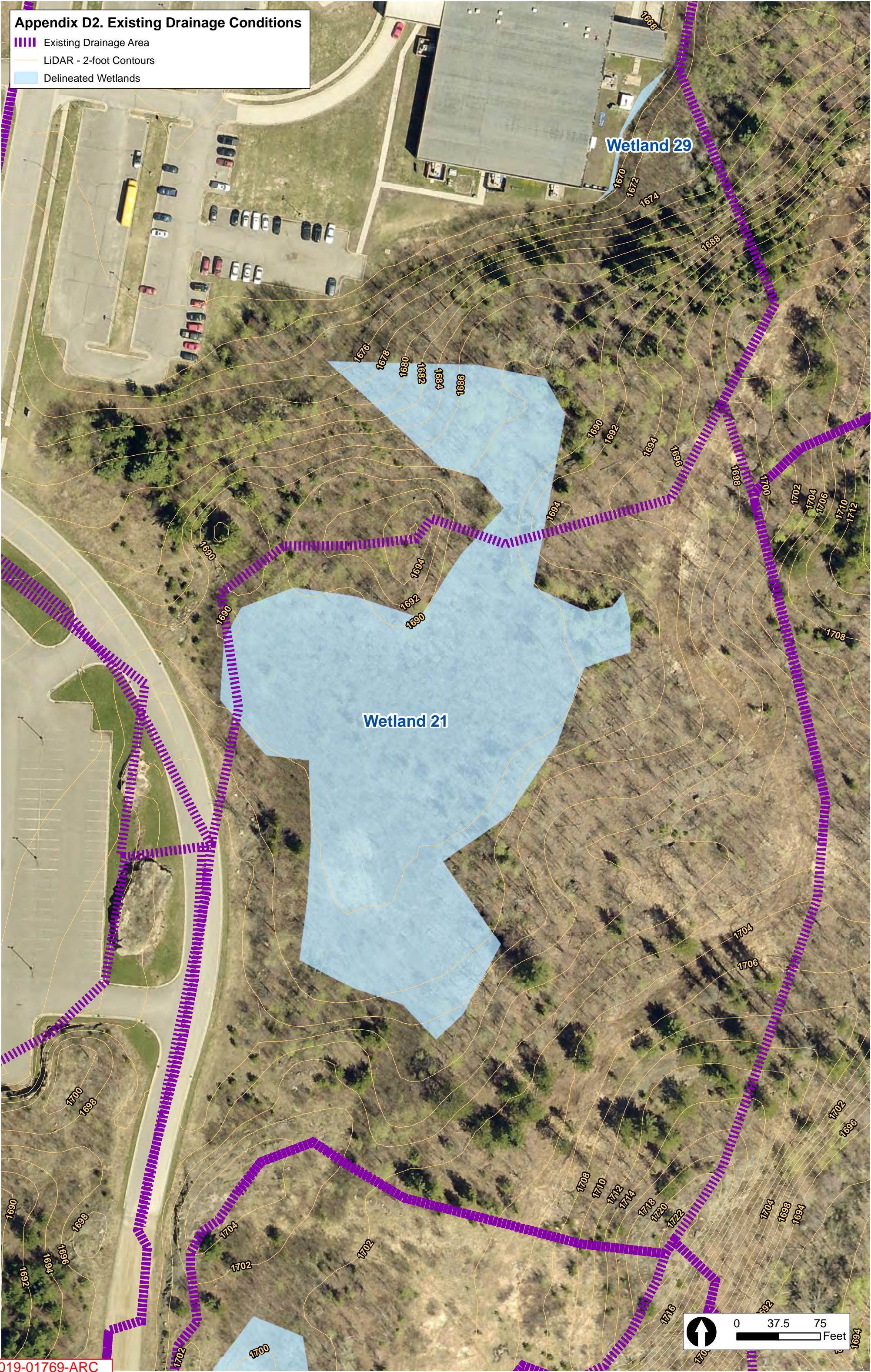
-  Study Area
-  Municipalities
-  Parcels
-  DNR Public Watercourses
-  DNR Public Wetlands





Appendix D2. Existing Drainage Conditions

- Existing Drainage Area
- LiDAR - 2-foot Contours
- Delineated Wetlands



Appendix E3. Existing Drainage Conditions

- Existing Drainage Area
- LiDAR - 2-foot Contours
- Delineated Wetlands

Wetland 6

Wetland 28

