



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT
332 MINNESOTA STREET, SUITE E1500
ST. PAUL, MN 55101-1323

MVP-RD

[12 March 2026]

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023) ,¹ [[MVP-2023-01218-TMS MFR 1 of 1](#)]

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.² AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.³

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),⁴ the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

¹ While the Revised Definition of "Waters of the United States"; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

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1. SUMMARY OF CONCLUSIONS.

a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).

- i. [Wetland 3 (297th Ave), 0.12 acre, non-jurisdictional]
- ii. [Wetland 4 (297th Ave), 0.34 acre, non-jurisdictional]
- iii. [Wetland 1a (100th St), 0.11 acre, non-jurisdictional]
- iv. [Wetland 2a and 2b (100th St), 0.58 acre, non-jurisdictional]
- v. [Wetland 2c and 2d (100th St), 0.32 acre, non-jurisdictional]
- vi. [Wetland 4 (100th St), 0.23 acre, non-jurisdictional]
- vii. [Wetland 8 (100th St), 0.002 acre, non-jurisdictional]

2. REFERENCES.

- a. “Revised Definition of ‘Waters of the United States,’” 88 FR 3004 (January 18, 2023) (“2023 Rule”)
- b. “Revised Definition of ‘Waters of the United States’; Conforming” 88 FR 61964 (September 8, 2023)
- c. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)
- d. “Memorandum To The Field Between The U.S. Department Of The Army, U.S. Army Corps Of Engineers And The U.S. Environmental Protection Agency Concerning The Proper Implementation Of ‘Continuous Surface Connection’ Under The Definition Of ‘Waters Of The United States’ Under The Clean Water Act” (March 12, 2025)

3. REVIEW AREA. [The review area is approximately 1.7 acre in size and is located within road right-of-way along 297th Avenue and 100th Street in Baldwin Township, Sherburne County, Minnesota. The review area is identified within the yellow polygons on Figures 14, 15, 16, and 17 in the enclosed figures. The wetlands listed in Section 1.a above with the exception of Wetland 8 extend beyond the extent of the review area]

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4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. [N/A]⁵
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. [N/A]
6. SECTION 10 JURISDICTIONAL WATERS⁶: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁷ [N/A]
7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
 - a. Traditional Navigable Waters (TNWs) (a)(1)(i): [N/A]
 - b. The Territorial Seas (a)(1)(ii): [N/A]

⁵ This MFR should not be used to complete a new stand-alone TNW determination. A stand-alone TNW determination for a water that is not subject to Section 9 or 10 of the Rivers and Harbors Act of 1899 (RHA) is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established.

⁶ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

⁷ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

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- c. Interstate Waters (a)(1)(iii): [N/A]
- d. Impoundments (a)(2): [N/A]
- e. Tributaries (a)(3): [N/A]
- f. Adjacent Wetlands (a)(4): [N/A]
- g. Additional Waters (a)(5): [N/A]

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).
[The aquatic resources listed in Section 1.a are not Traditionally Navigable Waters, territorial seas, or interstate waters and are therefore not (a)(1) waters. The wetland delineation, application, aerial imagery, topographical maps, and digital elevation modeling indicate that these resources do not physically abut a relatively permanent (a)(2) impoundment or a jurisdictional (a)(3) tributary. Wetland 3 (297th Ave) is a depressional wetland surrounded by uplands to the east, west, and south, and 297th Ave to the north with no discrete surface connection to a relatively permanent water. Wetland 4 (297th Ave) is a depressional wetland surrounded by uplands to the north, east, and west and 297th Ave to the south with no discrete surface connection to a relatively permanent water. Wetland 1a (100th St) is surrounded by uplands to the east and south, 100th St to the west and 305th Ave to the north and drains to into a roadside ditch to the south that does not contain relatively permanent flow. Wetlands 2a and 2b (100th St) are depressional wetlands surrounded by uplands to the north, east, and south, and 100th St to the west with no discrete surface connection to a relatively permanent water. Wetlands 2c and 2d are depressional wetlands surrounded by uplands to the north, west, and south and 100th St to the east, and drain to the east to a roadside ditch that does not contain relatively permanent flow. Wetland 4 (100th St) is a depressional wetland surrounded to uplands to the north, east, and south and 100th St to the west with no discrete surface connection to a relatively permanent water. Wetland 8 is located in a manmade ditch that was constructed out of upland during the construction of 100th St to divert stormwater runoff away from the road. The ditch does not experience relatively permanent flow. These wetlands are located in low areas

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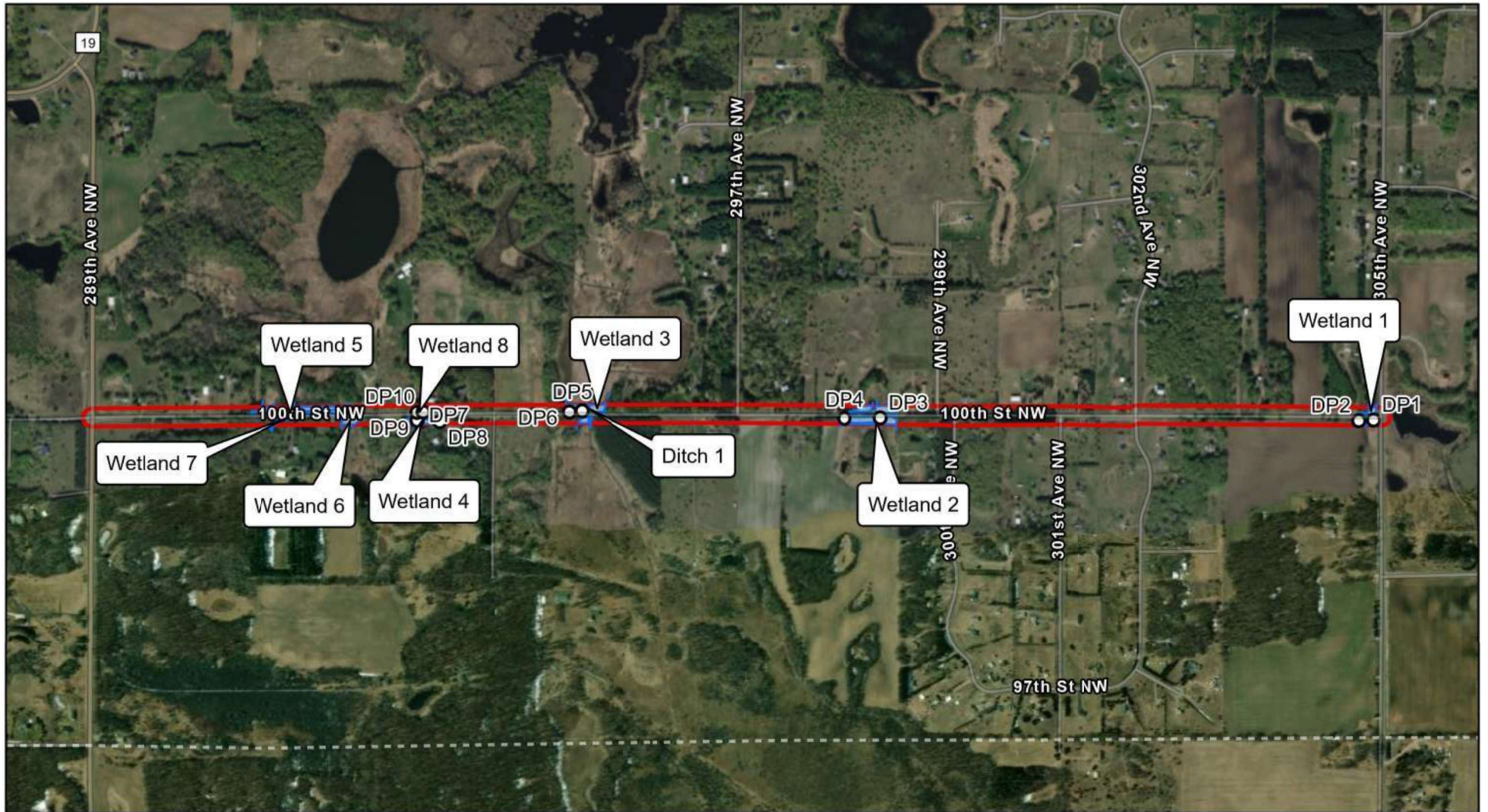
that are primarily fed by precipitation from surrounding uplands, stormwater runoff from adjacent roadways. These resources are non-tidal wetlands that do not have continuous surface connections to a relatively permanent jurisdictional water and as such do not meet the definition of adjacent and cannot be evaluated as (a)(4) adjacent wetlands. For these reasons, the aquatic resources listed in Section 1.a are not jurisdictional waters under the 2023 Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 Final Rule.]

9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.

- a. [Application, Hakanson Anderson, signed May 21, 2025]
- b. [National Regulatory Viewer, 2023 data sources]
- c. [Google Earth Pro and Google Street View]

10. OTHER SUPPORTING INFORMATION. [N/A]

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.



Legend

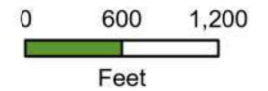
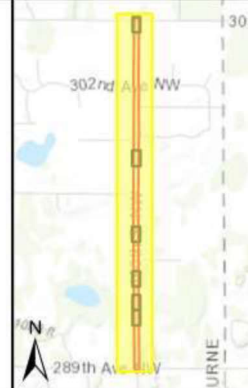
- Study Area
- Delineated Wetlands
- Delineated Ditches
- Data Points

**Figure 3-1
Overview**

Delineated Wetlands and Other Features

100th Street Reconstruction

Baldwin Township
Sherburne County, MN






Date Printed:
10/5/2023

Created By:
CAF

1 inch equals 1,200 feet

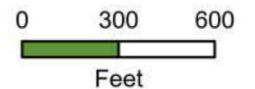


Legend

-  Study Area
-  Delineated Features
-  Data Points

**Figure 3-1
Overview**

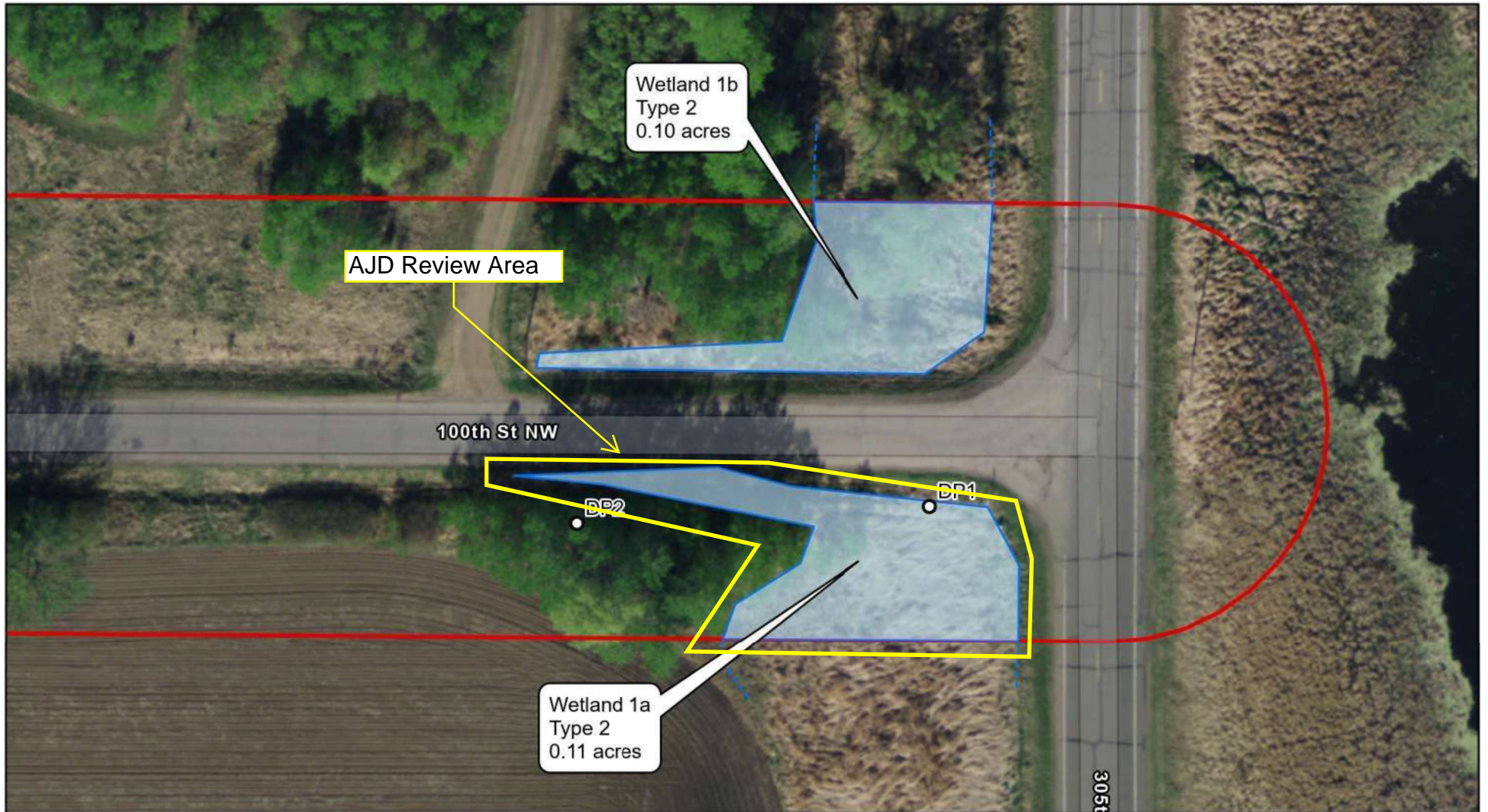
Delineated Wetlands
 297th Street Reconstruction
 Baldwin Township
 Sherburne County, MN



Date Printed:
9/13/2023

Created By:
CAF

1 inch equals 600 feet



Wetland 1b
Type 2
0.10 acres

AJD Review Area

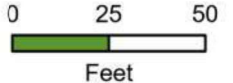
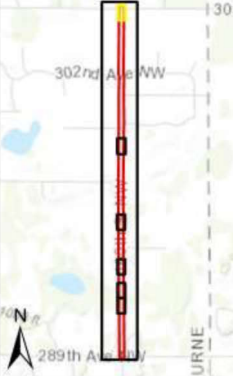
100th St NW

DP2

DP1

Wetland 1a
Type 2
0.11 acres

305th St NW



Date Printed: 10/5/2023	Created By: CAF
1 inch equals 50 feet	

Legend

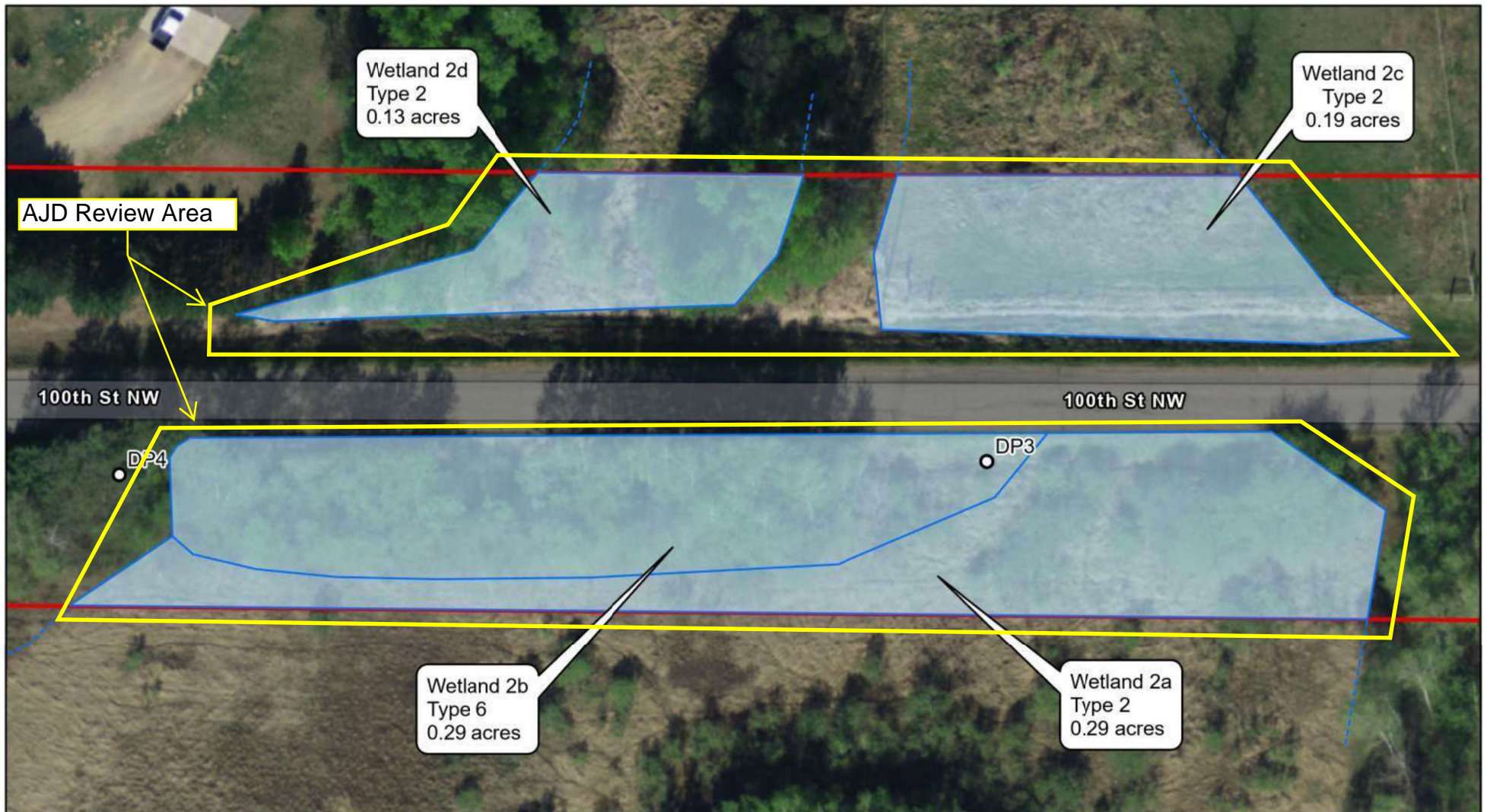
- Study Area
- Delineated Wetlands
- Delineated Ditches
- Data Points

Figure 3-2 Wetland 1a and 1b

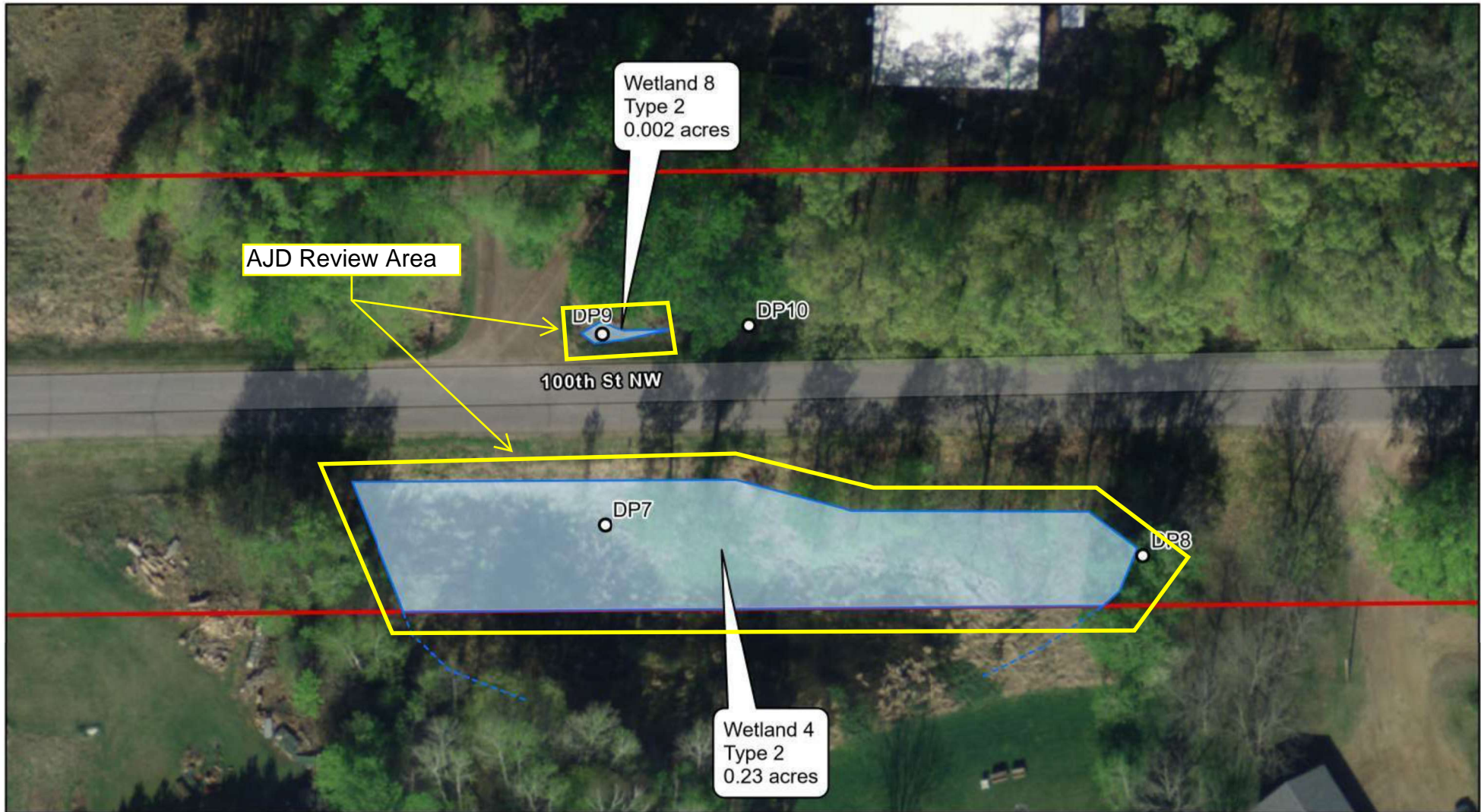
Delineated Wetlands and Other Features

100th Street Reconstruction

Baldwin Township
Sherburne County, MN



<p>Legend</p> <ul style="list-style-type: none"> Study Area Delineated Wetlands Delineated Ditches Data Points 	<p>Figure 3-3 Wetland 2a-2d</p> <p>Delineated Wetlands and Other Features</p> <p>100th Street Reconstruction</p> <p>Baldwin Township Sherburne County, MN</p>		<div style="text-align: right;"> <p>0 25 50 Feet</p> </div> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Date Printed: 10/5/2023</td> <td style="padding: 2px;">Created By: CAF</td> </tr> <tr> <td colspan="2" style="text-align: center; padding: 2px;">1 inch equals 50 feet</td> </tr> </table>	Date Printed: 10/5/2023	Created By: CAF	1 inch equals 50 feet	
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1 inch equals 50 feet							



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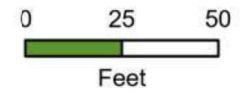
- Study Area
- Delineated Wetlands
- Delineated Ditches
- Data Points

**Figure 3-5
Wetland 4 and 8**

Delineated Wetlands and Other Features

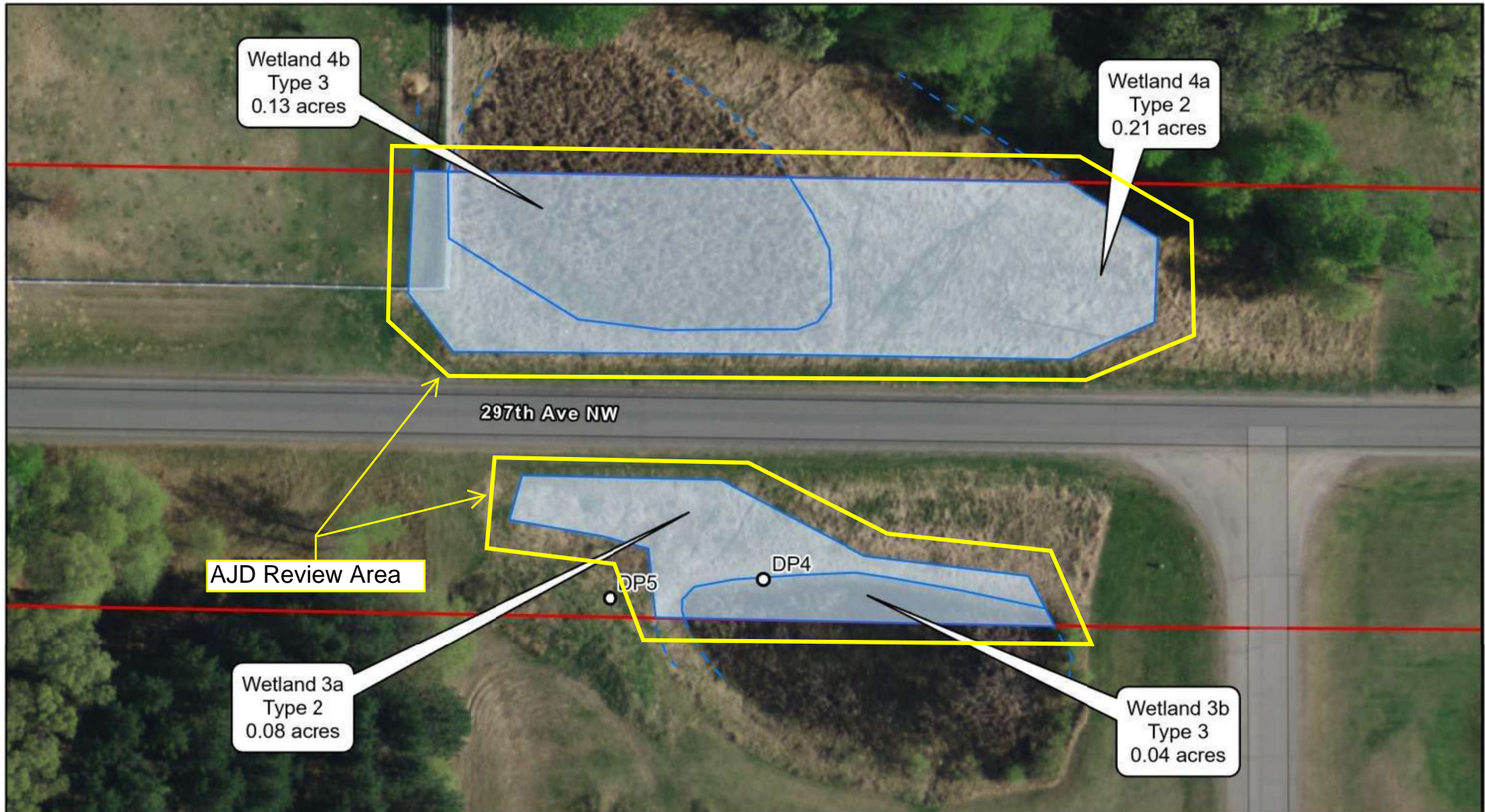
100th Street Reconstruction

Baldwin Township
Sherburne County, MN



Date Printed: 10/5/2023	Created By: CAF
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1 inch equals 50 feet

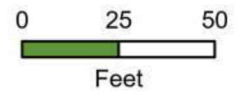


Legend

- Study Area
- Delineated Features
- Data Points

**Figure 3-3
Wetland 2**

Delineated Wetlands
 297th Street Reconstruction
 Baldwin Township
 Sherburne County, MN



Date Printed:
9/13/2023

Created By:
CAF

1 inch equals 50 feet