



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT
ST. PAUL DISTRICT OFFICE
332 MINNESTOA STREET SUTIE E1500
ST. PAUL MINNESOTA 55101

MVP-R

June 4, 2025

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-2025-00530-RJH (MFR 1 of 1)²

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.³ 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.⁴

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),⁵ the 2023 Rule as amended,

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 When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, the territorial seas, or interstate water that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).

³ 33 CFR 331.2.

⁴ Regulatory Guidance Letter 05-02.

⁵ 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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as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

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).

- [Wetland 2, \(1.28 acre\)](#)

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.

- a. Project Area Size (in acres): 8.4
- b. Location Description: The project/review area is located in Section 18, Township 019N, Range 017E, Winnebago County, Wisconsin.
- c. Center Coordinates of the Project Site (in decimal degrees)
Latitude: 44.114150 Longitude: -88.521840
- d. Nearest City or Town: Neenah
- e. County: Winnebago
- f. State: Wisconsin
- g. Other associated Jurisdictional Determinations (including outcomes):

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4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. [NA]⁶
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. [NA]
6. SECTION 10 JURISDICTIONAL WATERS⁷: 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 10.⁸
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

⁶ 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.

⁷ 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.

⁸ 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.

- 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 other features within the review area identified in the 2023 Rule as amended as not “waters of the United States” even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).⁹ [N/A]
- b. 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).

We have reviewed and evaluated the historical photography, Google Earth photography, soil mapping, and the information submitted by the applicant for the following wetlands:

Wetland 2, (1.28 acre)

Digital Elevation Models and aerial imagery indicate that Wetland 2 is a sizable feature located within an active commercial lot. It encompasses several components, including a portion of the Green Valley Road right-of-way (ROW) ditch, a depressional wet meadow, a swale, and an open-water pond. The wet meadow is bordered by uplands and lies adjacent to the open-water pond, which has been modified to function as a stormwater settling basin.

⁹ 88 FR 3004 (January 18, 2023)

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The swale connects the pond to the northern property boundary, continuing eastward into a neighboring parcel. This swale extends into another wetland complex that appears to be surrounded by uplands. The portion of Wetland 2 within the ROW is limited in extent, lacks contiguous wetland characteristics across the ROW, and is fragmented by uplands that sever any direct connection to a relatively permanent water (RPW).

Based on elevation data and aerial analysis, we have determined that Wetland 2 is not abutting or physically connected to an RPW. It is located approximately 0.28 miles west of an unnamed tributary to the Neenah Slough, which is classified as an RPW.

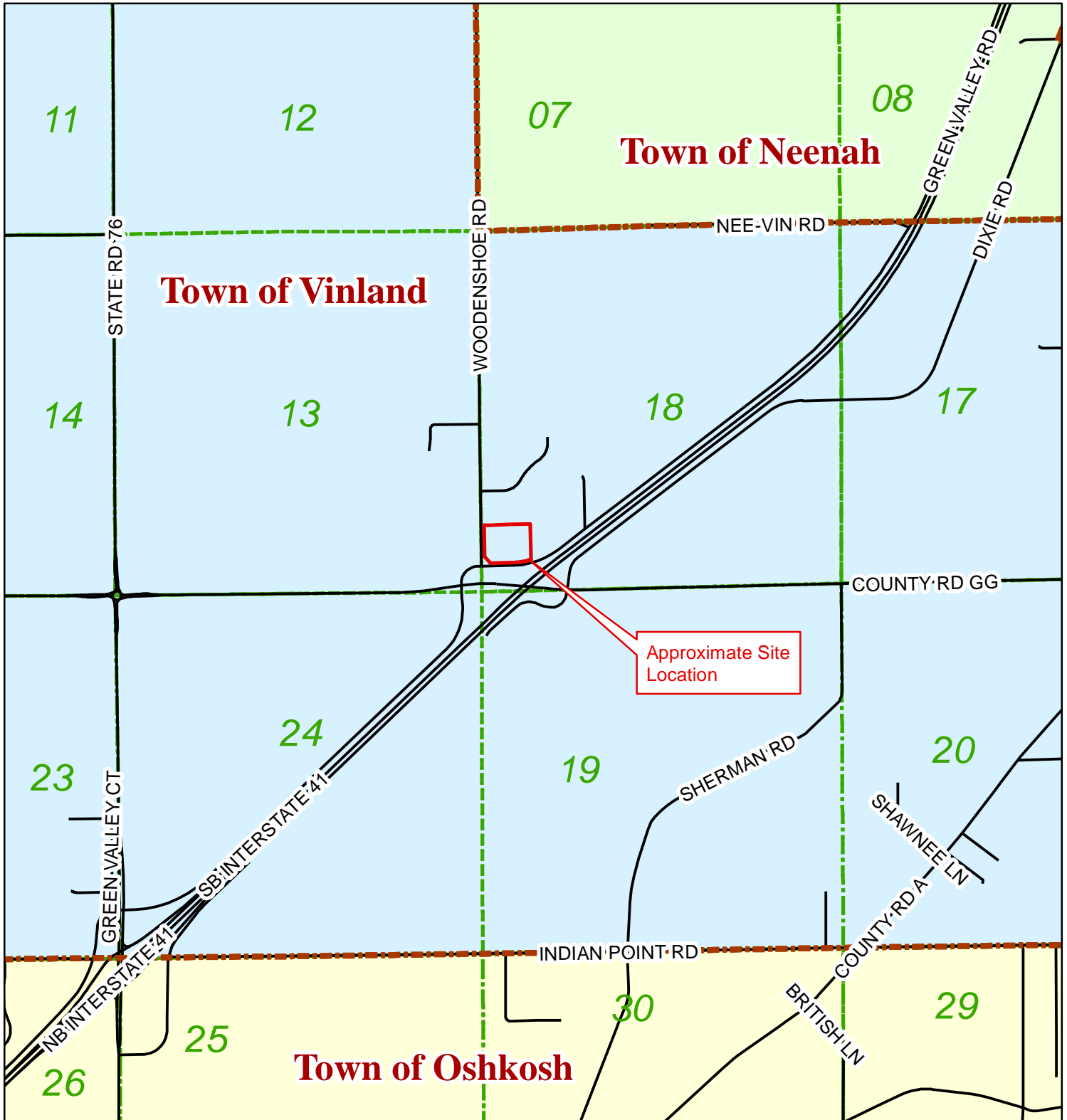
Wetland 2 is not a TNW, territorial sea, or interstate waters and therefore are not (a)(1) waters. Wetland 2 does not physically abut a relatively permanent water, paragraph (a)(2) impoundment or a jurisdictional (a)(3) tributary. Wetland 2 is a non-tidal wetland that does not meet the definition of adjacent and cannot be evaluated as (a)(4) adjacent wetlands; therefore, Wetland 2 is not jurisdictional 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. [Office evaluation conducted June 03 2025]]
- b. [National Regulatory Viewer – USA Soils Hydric Class layer, National Wetland Inventory layer, Hillshade layer and DEM layer accessed on 21 May 2025]
- c. [Wetland Delineation Report, submitted by Martenson & Eisele, Inc, dated September 2023.]

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.



This base map information was obtained from Winnebago County Planning and Zoning Department and is intended to be used as a reference. They assume no liability for the accuracy of this map or its use or misuse.

winnebago county_gis.mxd_08/21/2023

1 : 24,000



Appendix A Project Location

6131 Green Valley Road
Section 18, T19N, R17E
Town of Vinland
Winnebago County, Wisconsin

National Flood Hazard Layer FIRMette



88°31'35"W 44°7'2"N

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Legend

Appendix G

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway
OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes. Zone X
		Area with Flood Risk due to Levee Zone D
OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard Zone X
		Effective LOMRs
GENERAL STRUCTURES		Area of Undetermined Flood Hazard Zone D
		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
		17.5 Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
MAP PANELS		Coastal Transect Baseline
		Profile Baseline
		Hydrographic Feature
		Digital Data Available
		No Digital Data Available
		Unmapped

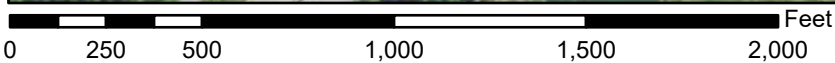


The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on **8/23/2023 at 9:54 AM** and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



1:6,000

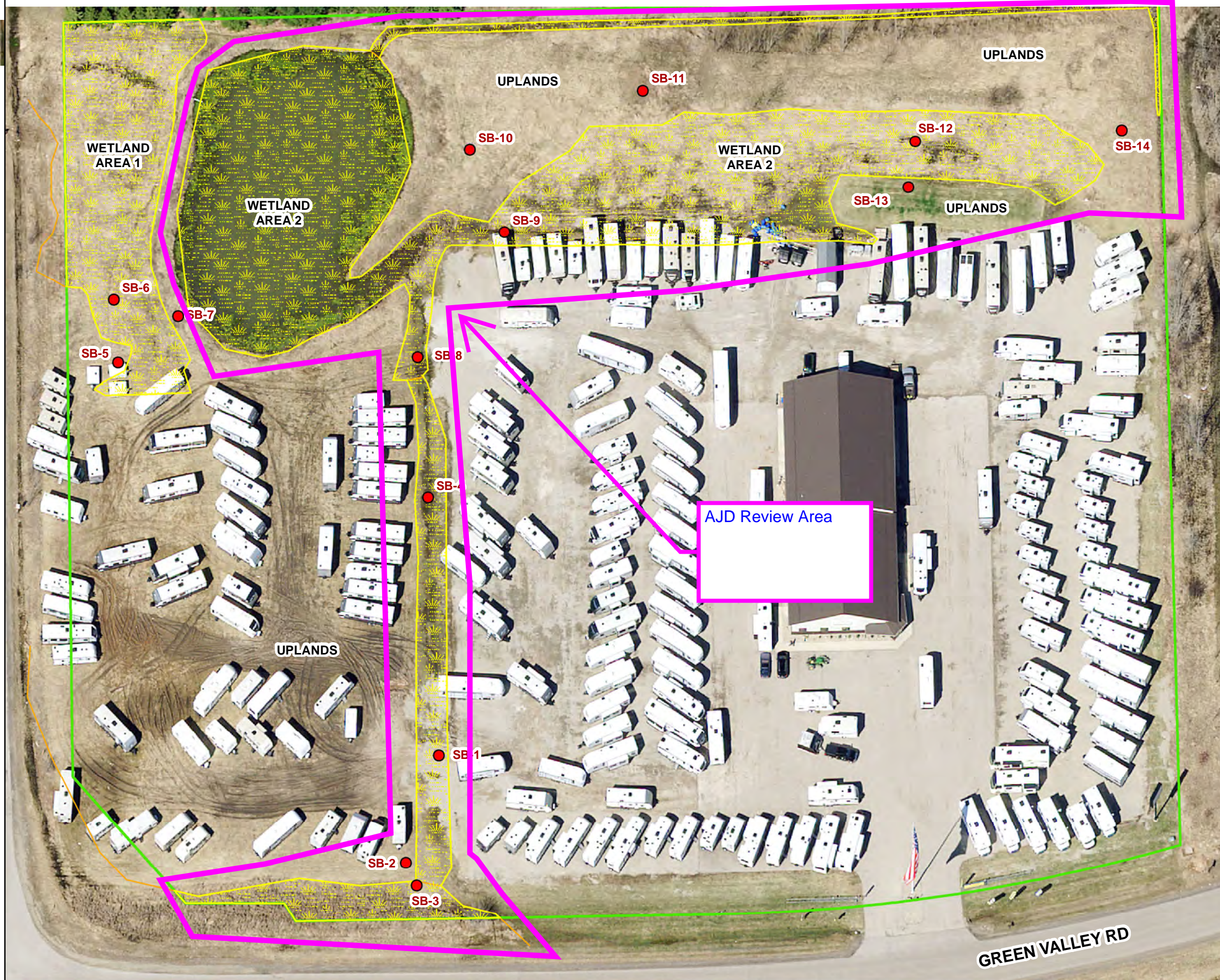
88°30'57"W 44°6'36"N

Basemap Imagery Source: USGS National Map 2023

Appendix B
 Surveyed Wetland Boundary

6131 Green Valley Road
 Section 18, T19N, R17E
 Town of Vinland
 Winnebago County, Wisconsin

For: Kunes Neenah RV Properties, LLC



Legend

- Boring Locations
- Wetlands
- Wetland Line
- Approximate Site Location

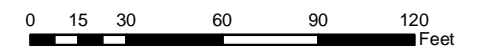
WETLAND AREA 1 = 13,367.6 S.F. (0.307 AC)
 WETLAND AREA 2 = 55,762.7 S.F. (1.280 AC)

TOTAL SITE AREA = 368,015 S.F. (8.448 AC)

NOTE: AERIALS ARE NOT TIED TO COUNTY COORDINATES AND PHOTOS ARE APPROXIMATE. (FOR REFERENCE USE ONLY)



Scale 1" = 60'



This base map information was obtained from the Winnebago County Planning and Zoning Department and is intended to be used as a reference. They assume no liability for the accuracy of this map or its use or misuse.

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GREEN VALLEY RD



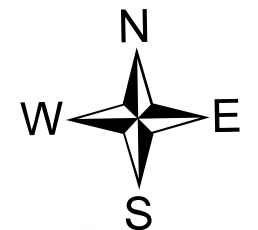
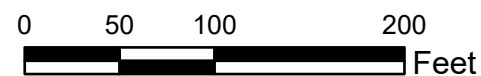
Image © 2025 Airbue

Legend

-  Site Boundary
-  Wetland Line
-  Wetland
-  Wetland Fill 2024
-  Proposed Asphalt Limits

Kunes RV Property Proposed Site Plan 6131 Green Valley Road Town of Vinland Winnebago County, WI

Project: WIN25-079-08



Wetland Delineation was conducted by Martenson & Eisele, Inc.



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