



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

MVP

March 19, 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-2026-00205-SSC MFR 1 of 1²

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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SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVP-2026-00205-SSC

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).

Name of Aquatic Resource	JD or Non-JD	Section 404/Section 10
Wetland 1 (0.08 acre)	Non-Jurisdictional	N/A

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)
- e. January 2023 Rule preamble at 88 FR 3090

3. REVIEW AREA.

- a. Project Area Size (in acres): approximately 9 acres
- b. Location Description: The project/review area is located in Section 27 and 34, Township 119N, Range 026W, Wright County, Minnesota.
- c. Center Coordinates of the Project Site (in decimal degrees)
Latitude: 45.078040 Longitude: -93.931920
- d. Nearest City or Town: Montrose
- e. County: Wright
- f. State: Minnesota
- g. Other associated Jurisdictional Determinations (including outcomes): N/A

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4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. N/A⁶
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. N/A
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.

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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 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).

Wetland 1 is not a TNW, territorial sea, or interstate water and is therefore not an (a)(1) water. Wetland 1 does not connect to any other wetlands or tributaries on or off-site. Wetland 1 was evaluated as a potential (a)(4) water but does not have a continuous surface connection to a jurisdictional water.

The National Wetland Inventory (NWI) and National Hydrography Dataset (NHD) were both reviewed for the site and did not denote the presence of Wetland 1. Soils within this area are described as Lester loam, 6 to 10 percent slopes, moderately eroded (Soil Survey), a non-hydric soil. Aerial imagery prior to 2006 does not appear to show Wetland signature in the area of Wetland 1. The wetland developed between 2006 and 2008 when White Tail Lane was constructed. Contours (2-feet) in this area show that Wetland 1 is surrounded by uplands and does not have a continuous surface connection with Wetland 2.

⁹ 88 FR 3004 (January 18, 2023)

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Based on this information, Wetland 1 is a non-jurisdictional feature as it does not have a continuous surface connection with a jurisdictional resource.

Wetland 1 does not have a continuous surface connection to a relatively permanent jurisdictional water and as such does not meet the definition of adjacent and cannot be evaluated as an (a)(4) adjacent wetland; therefore, Wetland 1 is a non-tidal wetland that 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. Clementa Avenue Improvement Project, Replacement Plan – Amendment 1, dated February 26, 2026
- b. United States Fish and Wildlife Service, National Wetland Inventory, accessed March 17, 2026
- c. United States Geological Survey, National Hydrography Dataset, accessed on March 17, 2026
- d. USDA Natural Resources Conservation Service, Web Soil Survey, accessed March 17, 2026
- e. Google Earth Aerial Imagery, Imagery dated 2003, 2004, 2006, and 2008, accessed on March 17, 2026
- f. Minnesota Department of Natural Resources, MnTOPO, accessed March 17, 2026

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.

CITY OF MONTROSE

CONSTRUCTION PLANS FOR

CLEMENTA AVENUE PATH IMPROVEMENT PROJECT

BITUMINOUS TRAIL GRADING & PAVING, STORM SEWER & RESTORATION
MAY, 2025

RESOURCE LIST

CITY OF MONTROSE

CITY HALL
311 BUFFALO AVENUE S
P.O. BOX 25
MONTROSE, MN 55363
763-575-7425

CITY ADMINISTRATOR:
JESSICA BONNIWELL

CITY ENGINEER:
JARED VOGUE P.E.
BOLTON & MENK, INC.
2040 HIGHWAY 12 EAST
WILLMAR, MN 56201
320-231-3956

PUBLIC WORKS DIRECTOR:
DAN REMER
763-238-2389

UTILITIES

GAS
XCEL ENERGY
GARETT CLAUDY
320-743-8212

COMMUNICATIONS
COMCAST CABLE
TODD MENTELE
7255 LEXINGTON AVE N
ARDEN HILLS, MN 55126
612-834-4382

WINDSTREAM COMMUNICATIONS
TERRY BURKE
440 EAGLE LAKE RD N
BIG LAKE, MN 55309
641-218-0198

ZAYO BANDWIDTH
CHARLIE COGBILL
612-940-1788

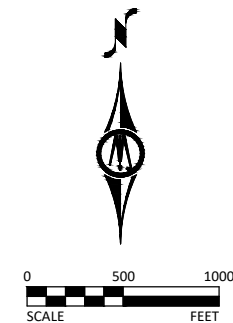
TDS TELECOM
BRAD CARLSON
316 PINE STREET
MONTICELLO, MN 55362
320-485-2701

ELECTRIC
XCEL ENERGY
CHRIS ROSENTHAL
2302 GREAT NORTHERN DRIVE
FARGO, ND 58201
320-255-8621



SHEET NUMBER	SHEET TITLE
GENERAL	
G0.01 - G0.03	TITLE SHEET, LEGEND, CONSTRUCTION NOTES
G1.01	STATEMENT OF ESTIMATED QUANTITIES
CIVIL	
C0.01 - C0.03	EXISTING CONDITIONS & REMOVALS PLAN
C1.01	TYPICAL SECTIONS
C1.02 - C1.08	DETAILS
C2.01 - C2.05	STORMWATER POLLUTION PREVENTION PLAN (SWPPP)
C5.01 - C5.02	STORM SEWER PLAN & PROFILE
C6.01 - C6.06	TRAIL PLAN & PROFILE
C6.07	PEDESTRIAN RAMP DETAILS
C7.01	TRAFFIC CONTROL PLAN
C8.01 - C8.10	CROSS SECTIONS

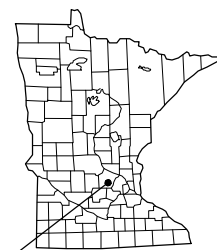
THIS PLAN SET CONTAINS 43 SHEETS.



MAP LEGEND

— PROJECT LIMITS

MAP OF THE CITY OF MONTROSE WRIGHT COUNTY, MN



PROJECT LOCATION

+ BM=986.69 TOP NUT OF HYDRANT SOUTH OF 1ST ST N & CLAMENTA AVE	PROJECT DATUM: HORIZONTAL: NAD 83 (2011) WRIGHT COUNTY COORDINATE SYSTEM VERTICAL: NAVD 88
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I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

JARED A. VOGUE
 LIC. NO. 45063 DATE XX/XX/2025



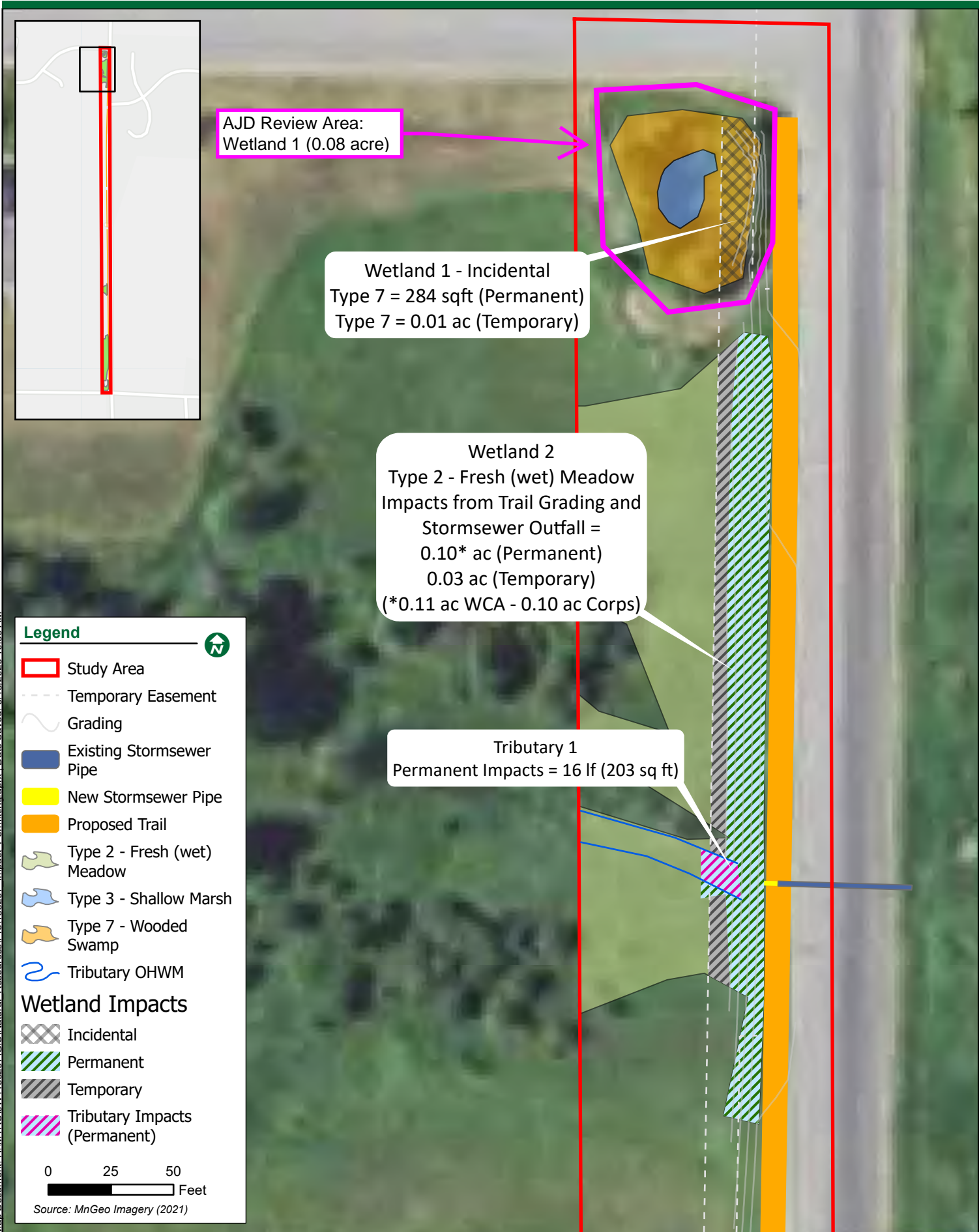
2040 HIGHWAY 12 EAST
WILLMAR, MN 56201
Phone: (320) 231-3956
Email: Willmar@bolton-menk.com
www.bolton-menk.com



DESIGNED	NO.	ISSUED FOR	DATE
CAS			
DRAWN			
CAS			
CHECKED			
JAV/SJJ			
CLIENT PROJ. NO.			
OW1.133297			

CITY OF MONTROSE, MINNESOTA
 CLEMENTA AVENUE PATH IMPROVEMENT PROJECT
 TITLE SHEET

SHEET
G0.01



AJD Review Area:
Wetland 1 (0.08 acre)

Wetland 1 - Incidental
Type 7 = 284 sqft (Permanent)
Type 7 = 0.01 ac (Temporary)

Wetland 2
Type 2 - Fresh (wet) Meadow
Impacts from Trail Grading and
Stormsewer Outfall =
0.10* ac (Permanent)
0.03 ac (Temporary)
(*0.11 ac WCA - 0.10 ac Corps)

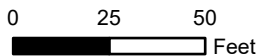
Tributary 1
Permanent Impacts = 16 lf (203 sq ft)

Legend

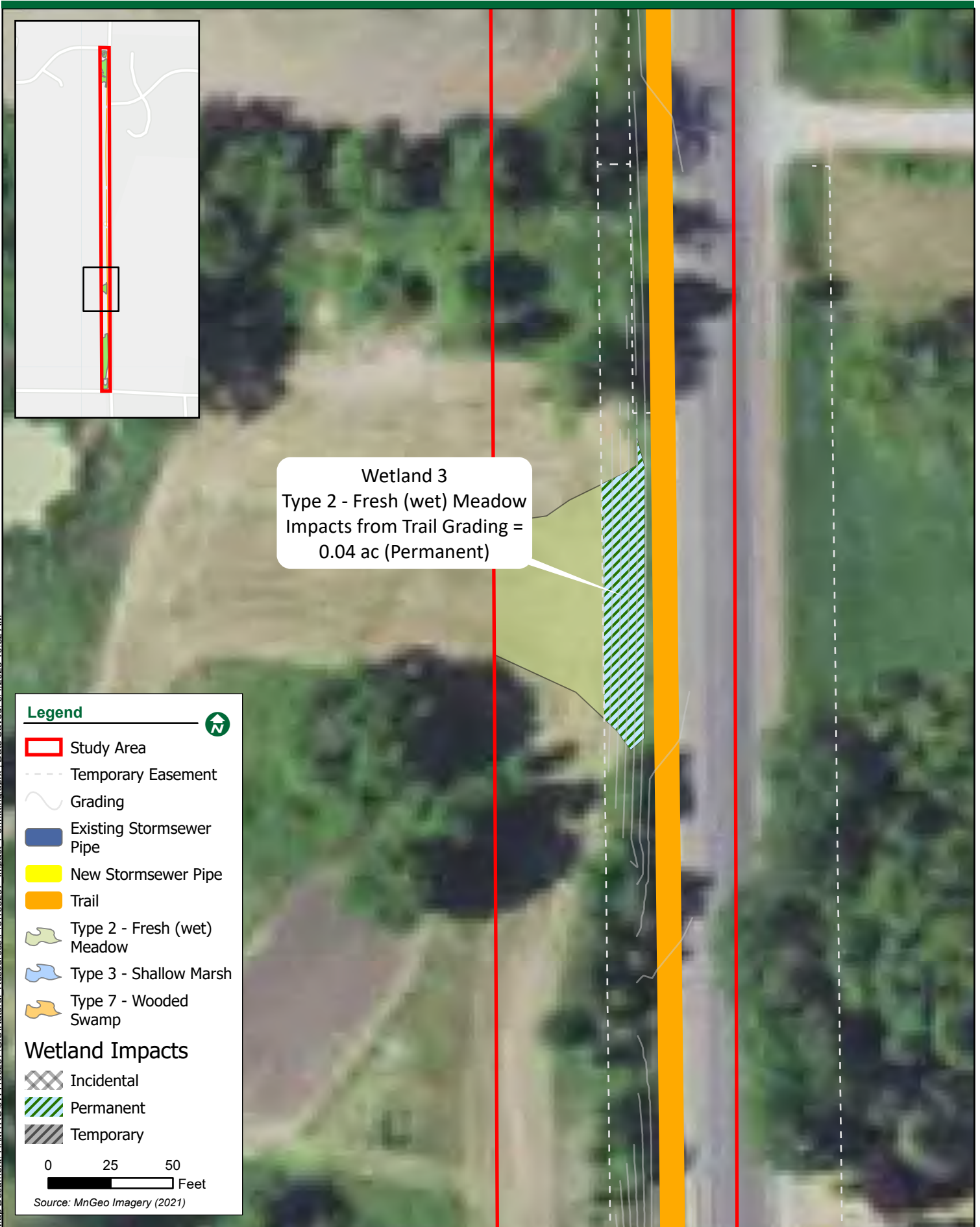
- Study Area
- Temporary Easement
- Grading
- Existing Stormsewer Pipe
- New Stormsewer Pipe
- Proposed Trail
- Type 2 - Fresh (wet) Meadow
- Type 3 - Shallow Marsh
- Type 7 - Wooded Swamp
- Tributary OHWM

Wetland Impacts

- Incidental
- Permanent
- Temporary
- Tributary Impacts (Permanent)



Source: MnGeo Imagery (2021)



Wetland 3
 Type 2 - Fresh (wet) Meadow
 Impacts from Trail Grading =
 0.04 ac (Permanent)

Legend

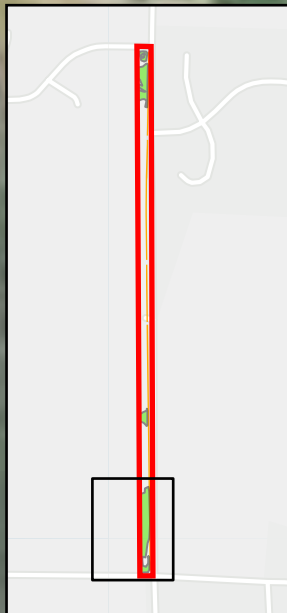
- Study Area
- Temporary Easement
- Grading
- Existing Stormsewer Pipe
- New Stormsewer Pipe
- Trail
- Type 2 - Fresh (wet) Meadow
- Type 3 - Shallow Marsh
- Type 7 - Wooded Swamp

Wetland Impacts

- Incidental
- Permanent
- Temporary

0 25 50 Feet
 Source: MnGeo Imagery (2021)

Map Document: H:\MTRS\0\W1133297\GIS\Natural_Resources\Proj133297_Impact_Permitting.aprx | Date Saved: 6/4/2025 10:32 AM



Tributary 3
Permanent Impacts = 13 lf (175 sq ft)

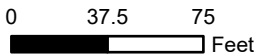
Wetland 4
Type 2 - Fresh (wet) Meadow
Impacts from Trail Grading and
Stormsewer Pipe Extension =
0.19 ac (Permanent)
0.07 ac (Temporary)

Legend

- Study Area
- Temporary Easement
- Grading
- Existing Stormsewer Pipe
- New Stormsewer Pipe
- Trail
- Type 2 - Fresh (wet) Meadow
- Type 3 - Shallow Marsh
- Type 7 - Wooded Swamp

Wetland Impacts

- Incidental
- Permanent
- Temporary
- Tributary Impacts (Permanent)
- Tributary OHWM



Source: MnGeo Imagery (2021)