



**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

March 11, 2026

Regulatory File No. MVP-2026-00105

Todd Miller  
American Transmission Company  
1075 Woodward Avenue, Suite B  
Kingsford, MI 49802  
tmiller@atcllc.com

Dear Todd Miller,

This letter contains an Approved Jurisdictional Determination (AJD) for the area(s) identified below, located on the American Transmission Company (ATC) Edgewater Substation in Section 2, Township 14 N, Range 23 E, Sheboygan County, Wisconsin. The review area for this determination is identified on the enclosed figure labeled: MVP-2026-00105 Figure 1 of 2 through Figure 2 of 2.

**Non-Jurisdictional Area(s):**

We have determined that the following area(s) are not waters of the United States subject to Corps of Engineers (Corps) jurisdiction under Section 404 of the Clean Water Act or Sections 9 or 10 of the Rivers and Harbors Act:

- Wetland 1, (0.06 acre)

You are not required to obtain Corps authorization within the area(s) listed above. This determination only applies to the area(s) identified above and is based on a reasonable approximation of their location and boundaries. The basis for this determination is provided in the enclosed Memorandum for Record.

The proposed work identified in your request and reflected on the attached drawing(s) does not require Corps authorization. If a change in design or location is contemplated, please contact our office to reassess permit requirements. Please note that you may need state or local authorizations.

**Appeal Process:**

If you object to this approved jurisdictional determination, you may request an administrative appeal under Corps regulations at 33 CFR 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination, you must submit a completed RFA form to the Mississippi Valley Division Office at the address shown on the form. In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR 331.5, and that it has been received by the Division Office within 60 days of the date of the enclosed NAP.

It is not necessary to submit an RFA form to the division office if you do not object to the determination in this letter.

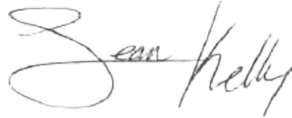
**AJD Expiration:**

This AJD may be relied upon for five years from the date of this letter. However, the Corps reserves the right to review and revise the determination in response to information that was not considered during our initial review.

**Contact Information:**

If you have any questions, please contact Tom Hayek in our St. Paul office at 651-290-5344 or tom.j.hayek@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,

A handwritten signature in black ink that reads "Sean Kelly". The signature is written in a cursive style with a large, looping "S" at the beginning.

Sean Kelly  
Lead Project Manager

Enclosures  
AJD MFR, Appeals Form

cc: Mari Olson, GEI  
molson@geiconsultants.com



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT  
GREEN BAY FIELD OFFICE  
211 NORTH BROADWAY STREET SUITE # 221  
GREEN BAY WISCONSIN 54303

MVP

MEMORANDUM FOR RECORD

March 11, 2026

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) ,<sup>1</sup> MVP-2026-00105 [[MFR 1 of 1](#)]<sup>2</sup>

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.<sup>3</sup> 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.<sup>4</sup>

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),<sup>5</sup> the 2023 Rule as amended,

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<sup>1</sup> 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.

<sup>2</sup> 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.).

<sup>3</sup> 33 CFR 331.2.

<sup>4</sup> Regulatory Guidance Letter 05-02.

<sup>5</sup> 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-2026-00105

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	Non-Jurisdictional	Non-WOTUS

### 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 for this determination includes one non-jurisdictional ditch labeled as Wetland 1, on the attached figures labeled as MVP-2026-00105 Figure 1 of 2 through 2 of 2. A wetland delineation report was completed for the project site on November 25, 2025. The review area is located adjacent to the American Transmission Company (ATC) Edgewater Substation in Section 02, Township 14 North, Range 23 East, Sheboygan County, Wisconsin. The approximate center coordinates of this site (in decimal degrees) are Latitude: 43.716070, Longitude: -87.708630. There are no other JDs associated with this review area.

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SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVP-2026-00105

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. N/A
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. N/A
6. SECTION 10 JURISDICTIONAL WATERS<sup>6</sup>: 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.<sup>7</sup>  
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
  - c. Interstate Waters (a)(1)(iii): N/A
  - d. Impoundments (a)(2): N/A

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<sup>6</sup> 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.

<sup>7</sup> 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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SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVP-2026-00105

- 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).<sup>8</sup>

Wetland 1 is a drainage ditch constructed from a depression in uplands within the Edgewater Substation based on review of the wetland delineation report and desktop resources including US Geological Service 3DEP Hillshade and DEM maps; WiDNR 2-foot contour maps; WiDNR NWI Wetland Finder/NWI maps; NHD data; NRCS hydric soil data; and, aerial imagery from Google Earth Pro. Historical imagery shows that in 1937 the area consisted of grasslands surrounded by residential development, Sheboygan Power Plant, a county road to the west and the railroad present to the north. Construction for the Edgewater substation began between 1961 and 1967 and was completed in 1981. No major changes have occurred since at least 1992. Recent aerial photos do not show relatively permanent flow in Wetland 1. Based on the desktop delineation and desktop resources reviewed, the aquatic resource was excavated wholly in and in draining only uplands and does not carry a relatively permanent flow of water and, according to exclusion (b)(3) of the 2023 Rule, as amended, is not a water of the United States.

- 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).  
N/A

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<sup>8</sup> 88 FR 3004 (January 18, 2023)

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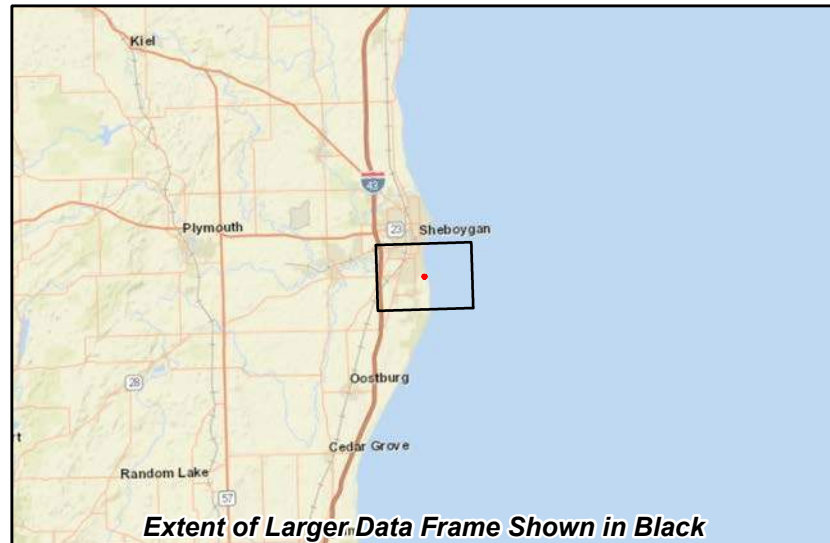
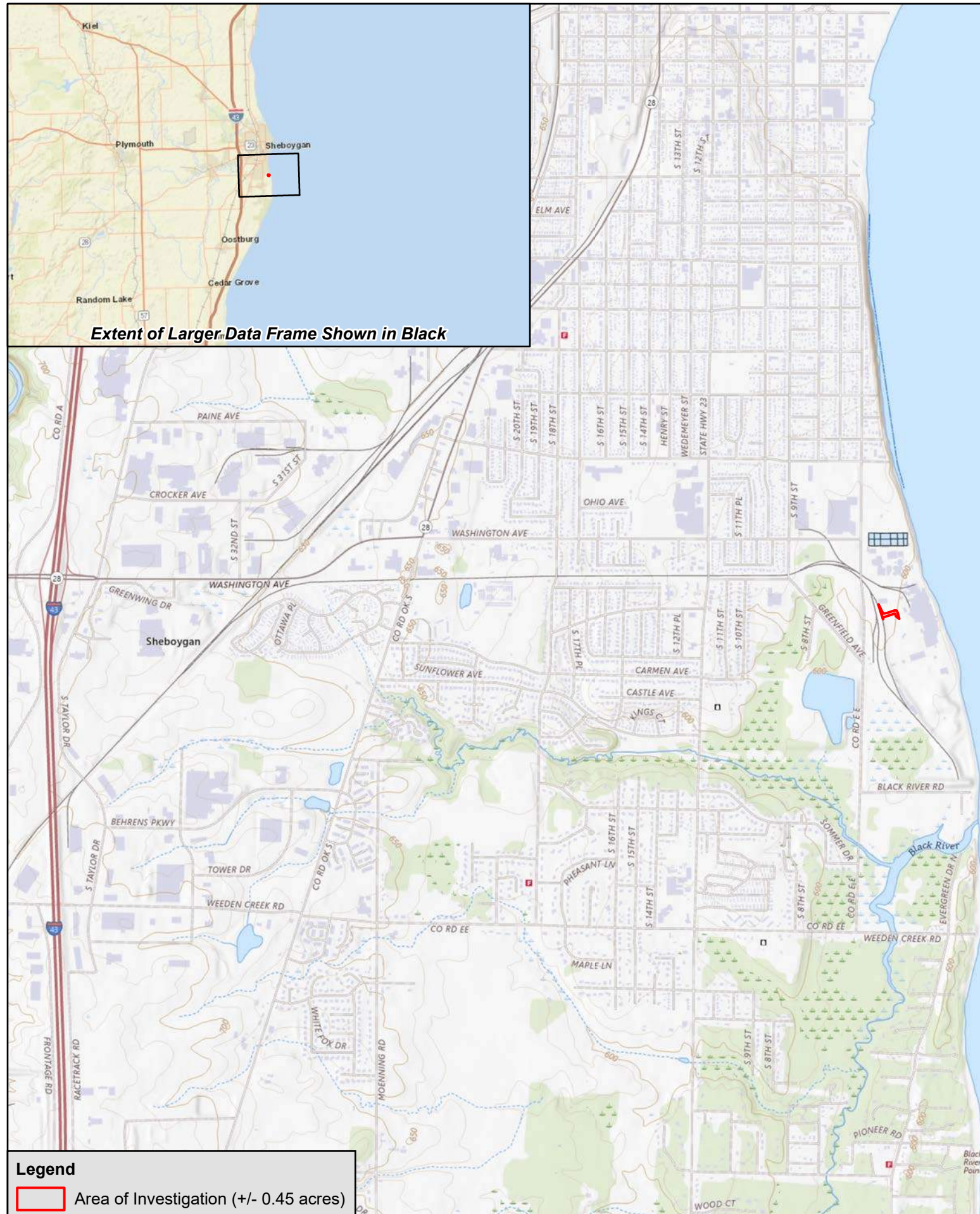
SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVP-2026-00105

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. GEI Consultants, Inc., Wetland Delineation Report, dated November 25, 2025.
- b. Desktop evaluation conducted March 10, 2026.
- c. USGS LiDAR, 3DEP Elevation Model, USGS TNM – National Hydrography Dataset, USFWS NWI Maps, and USDA/NRCS Soil Survey Maps.

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.



Extent of Larger Data Frame Shown in Black

**Legend**

Area of Investigation (+/- 0.45 acres)

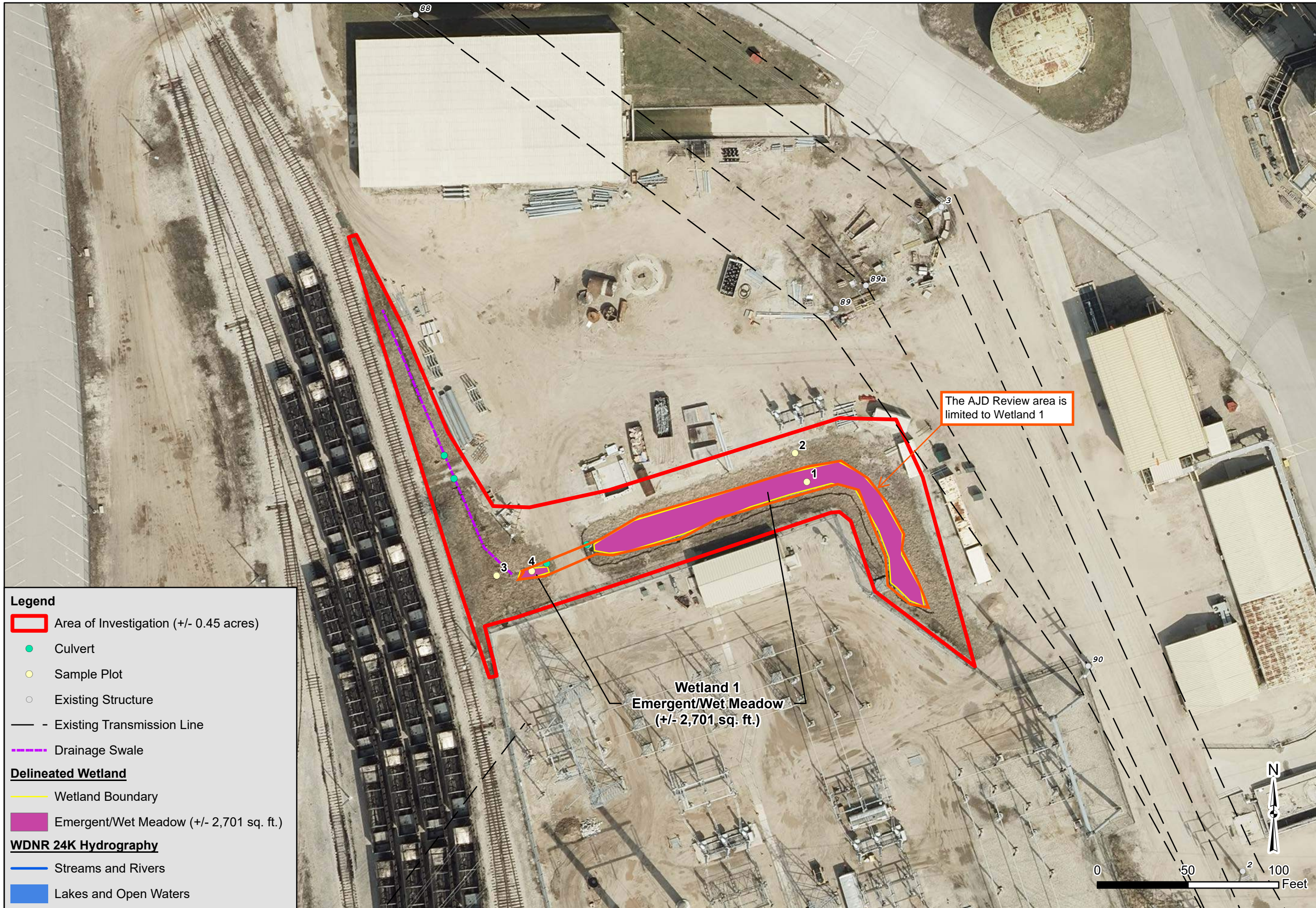
Located in:  
 Section 2, T14N, R23E  
 City of Sheboygan  
 Sheboygan County, Wisconsin



3159 Voyager Drive  
 Green Bay, WI 54311  
 www.geiconsultants.com

**FIGURE 1**  
**SITE LOCATION AND USGS TOPOGRAPHIC MAP**  
 AMERICAN TRANSMISSION COMPANY  
 EDGEWATER SUBSTATION EXPANSION  
 CITY OF SHEBOYGAN  
 SHEBOYGAN COUNTY, WISCONSIN

Drawn: MMQ 11/10/2025
Approved: MO 11/10/2025
Scale: As Shown
Project Number: 2400890
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**Legend**

- Area of Investigation (+/- 0.45 acres)
- Culvert
- Sample Plot
- Existing Structure
- Existing Transmission Line
- Drainage Swale

**Delineated Wetland**

- Wetland Boundary
- Emergent/Wet Meadow (+/- 2,701 sq. ft.)

**WDNR 24K Hydrography**

- Streams and Rivers
- Lakes and Open Waters

**FIGURE 5**  
**WETLAND DELINEATION MAP**

AMERICAN TRANSMISSION COMPANY  
EDGEWATER SUBSTATION EXPANSION  
CITY OF SHEBOYGAN  
SHEBOYGAN COUNTY, WISCONSIN

Drawn: MMQ 11/10/2025
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