



**US Army Corps
of Engineers**
St Paul District

PUBLIC NOTICE

Applicant:
Peter Miller
Mesabi Metallics Company LLC

Published: June 12, 2025
Expires: July 14, 2025

St. Paul District
Permit Application No. 2005-00546-SPK

TO WHOM IT MAY CONCERN: The St. Paul District of the U.S. Army Corps of Engineers (Corps) has received a modification request to a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344). The purpose of this public notice is to solicit comments from the public regarding the regulated work described below:

APPLICANT: Peter Miller
Mesabi Metallics Company LLC
17113 County Road 58
P.O. Box 25
Nashwauk, Minnesota 55769

AGENT: Mike Graham
Stantec
2080 Wooddale Drive
Suite 100
Woodbury, Minnesota 55125

WATERWAY AND LOCATION: The proposed modification would affect waters of the United States associated with O'Brien Creek/O'Brien Lake, Pickerel Creek, Sucker Brook, and Swan Lake/Swan River. The project/review area is in the Mesabi Iron Range in Sections 4, 5, 7, and 9, Township 56 North, Range 22 West and Section 9, Township 56 North, Range 23 West; at Latitude 47.357303 and Longitude -93.201385; in Nashwauk, Itasca County, Minnesota.

EXISTING CONDITIONS AND PROJECT HISTORY: On January 21, 2005, the Corps received a permit application from Minnesota Steel Industries, LLC to discharge fill material into wetlands to reactivate the former Butler Taconite mine and tailings basin area as well as the construction of new facilities. The Corps (lead federal agency) determined that regulated activities associated with the project would be a major federal action that has the potential to significantly affect the quality of the human environment, requiring the preparation of a federal Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA) and its implementing regulations. Minnesota Department of Natural Resources (MnDNR, lead state agency) and the Corps prepared a joint federal/state EIS, which was released to the public on June 22, 2007. A Record of Decision (ROD) was prepared on August 27, 2007. The EIS and

ROD can be found on MnDNR's website:

<https://www.dnr.state.mn.us/input/environmentalreview/minnsteel/index.html>.

On August 30, 2007, the Corps issued a permit to Minnesota Steel Industries, LLC authorizing the permanent discharge of fill material into 764.9 acres of waters of the United States (WOTUS) to construct and operate an open pit taconite mine at the former Butler Taconite site, and to construct and operate new facilities, including: a crusher, concentrator, taconite pellet plant, plant for producing direct reduced iron (DRI), and steel mill consisting of two arc furnaces, two ladle furnaces, two thin slab casters, and sheet rolling mill. In addition, the permit also authorized dewatering impacts to 398.2 acres of deepwater areas (abandoned mine pits). The former Butler Taconite Stage 1 tailings basin was also reactivated for disposal of concentrator tailings as a part of this project.

The Minnesota Steel Industries project was subsequently purchased by Essar Steel Minnesota, LLC (Essar Steel) in 2008. The Corps modified the permit on March 13, 2009, to update the permittee and modify a special condition regarding the compensatory mitigation plan as a result of changes to the project specific mitigation site. The Corps modified the permit again on September 30, 2015, allowing an additional 0.4 acres of wetland impacts for the construction of three stream crossings along Pickerel Creek. The 2015 permit modification authorized the total permanent discharge of fill material within 765.3 acres of WOTUS. As of October 2015, approximately 182.7 acres of wetland fill have occurred, and no new discharges have occurred since 2015. On May 4, 2016, Essar Steel reported 7.91 acres of wetland fill had not been previously authorized by the Corps as part of their annual monitoring reporting.

In January 2017, the company changed its name from Essar Steel Minnesota, LLC to Mesabi Metallics Company LLC (MMCL). MMCL is the current owner and operator of the mining operation and holds the DA permit (MVP-2005-546-JKA) issued by the Corps with an expiration date of December 31, 2029, to operate in its current permitted mining area. MMCL proposes modifications to the current permit to address minor, previously reported changes to filled areas described above and to address changes in land control for certain mining parcels. Several parcels were previously reviewed and included permitted activities but are no longer available. Due to these land control changes, MMCL proposes new wetland impacts for mining and appurtenant features to replace taconite resources within areas no longer available.

PROJECT PURPOSE: The 2007 EIS described the purpose and need for the project as follows: to mine taconite ore and produce steel on the MMCL project site in order to provide increased steel product to domestic and world markets. The purpose and need for the proposed modification is to replace the taconite resources originally proposed, but no longer available, based on current land use and for stormwater management.

PROPOSED WORK: MMCL requests a permit modification to permanently discharge fill material within an additional 9.78 acres of wetland outside of the original permitted

project boundary. Of the additional 9.78 acres of permanent discharges of fill material within wetlands, 0.36 acre of fill occurred between 2009 and 2015 and was not previously authorized by the Corps. The remaining 9.42 acres of wetlands proposed to be filled are associated with new mining operation areas and stormwater management. MMCL proposes to design stormwater management that would manage a zero-discharge facility that would include the construction of ponds, ditches, pipes, and pumps that would unavoidably impact wetlands.

A total of 74.85 acres of previously permitted discharges of fill material within wetlands is either no longer proposed or would not occur in WOTUS. Of this total, approximately 7.13 acres of wetland previously proposed to be filled would be avoided. The Corps conducted four jurisdictional determinations¹ and determined that the remaining 67.72 acres of wetland and four non-relatively permanent waters were not WOTUS and are therefore not subject to Corps authorization. As proposed, the MMCL modification would result in a total discharge of fill material within 699.87 acres of wetland, compared to the 765.3 acres of wetland fill authorized in the 2015 permit modification.

No change is proposed in the approach to mining, ore processing or reclamation from that described in the original permit application; however, there are minor alterations to haul road routes and material handling related to the mining operation described as part of this proposed modification.

QUANTITY, TYPE, AND AREA OF FILL: The regulated activities associated with the proposed modification described above include the permanent discharge of fill material into 9.78 acres of wetland associated with new mining operation areas and stormwater management system and seepage collection areas. Of the total 699.87 acres of wetland fill associated with the project, 690.09 acres of permanent discharge within wetlands was previously authorized under the 2015 permit modification of the original 2007 permit.

SOURCE OF FILL MATERIAL: The source of fill material would be obtained from existing quarries. The source of fill material would be overburden (clay, sand, gravel) that is excavated and moved at the beginning of the mining process.

THE FOLLOWING POTENTIALLY TOXIC MATERIALS COULD BE USED AT THE PROJECT SITE: Fill material used would be free from toxic pollutants. Stormwater at industrial sites may encounter any number of harmful pollutants, including toxic metals, oil, grease, de-icing salts and other chemicals from rooftops, roads, parking lots, and from activities such as storage and material handling. A stormwater pollution plan has been developed and identifies potential pollutant sources, outlines operation procedures for material handling activities, and describes controls and best management practices (BMPs) that would be implemented to minimize pollutants in stormwater runoff.

¹ Approved jurisdictional determinations can be found under file name "2005-00546-RHW" on our website: <https://www.mvp.usace.army.mil/Missions/Regulatory/Delineation/>.

THE FOLLOWING PRECAUTIONS TO PROTECT WATER QUALITY HAVE BEEN DESCRIBED BY THE APPLICANT: The proposed modification would be implemented with BMPs where applicable to address stormwater management, including ponding BMPs for settling of particulate pollutants and the storage and reuse of runoff to support site operations. The proposed modification includes a zero-discharge management plan for the site to protect offsite water quality.

Several stormwater management strategies would be implemented to capture and distribute runoff to supply process needs and maintain a zero-discharge site. Site runoff would be collected in gravity ditches, conveyed to and stored in ponds, and then pumped to the concentrator for re-use at a rate dictated by the expected industrial demand. Perimeter dikes and ditches would capture runoff from stockpiles and plant areas and convey runoff to collection ponds which were sized to provide live-storage exceeding the contributing 100-year runoff volume. Runoff would be temporarily stored in ponds before being pumped to the concentrator for use in operations or used for onsite dust suppression. The zero-discharge condition was evaluated for the 100-year, 24-hour rainfall event depth of 6.28 inches. All stormwater infrastructure, including ponds, ditches, and culverts, were designed to safely capture, convey, and store the runoff from all project areas impacted or disturbed by the proposed mining operation and stockpiles.

AVOIDANCE AND MINIMIZATION: MMCL has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: avoidance and minimization measures were detailed in the 2007 EIS. A total of 74.85 acres of discharges within wetlands would either be avoided or would not be occurring in WOTUS.

COMPENSATORY MITIGATION: MMCL offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The 9.42 acres of new wetland impacts are proposed to be mitigated through the purchase of 9.42 wetland credits from Wetland Bank #1545, a Corps approved mitigation bank located in BSA #5. Mesabi has been in contact with the Account Manager of Bank #1545 and has received a commitment that the credits are available. Mesabi's intent is to pursue the purchase of the needed credits as compensatory mitigation for the proposed wetland impacts of 9.42 acres. Wetland Bank #1545 is within the same Major Watershed and BSA as the project.

Past impacts through wetland fills have resulted in 0.36 acre of unpermitted jurisdictional wetland loss. The previous unpermitted impacts that occurred between 2009 and 2015 were permitted through a Notice of Decision (NOD) under the Wetland Conservation Act from the Minnesota DNR on July 17, 2019. This NOD included the purchase of 10.85 wetland credits from Wetland Bank #1545 which Mesabi completed. Mesabi proposes that the past impact of 0.36 acre has been mitigated through the 2019 credit purchase.

CULTURAL RESOURCES:

The Corps is evaluating the undertaking for effects to historic properties as required under Section 106 of the National Historic Preservation Act. This public notice serves to inform the public of the proposed undertaking and invites comments including those from local, State, and Federal government Agencies with respect to historic resources. Our final determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, federally recognized tribes and other interested parties.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

ENDANGERED SPECIES: The Corps has performed an initial review of the application and the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur within the boundary of the proposed modification. Based on this initial review, the Corps has made a preliminary determination that the proposed modification may affect but is not likely to adversely affect species and critical habitat listed in Table 1. No other ESA-listed species or critical habitat will be affected by the proposed action.

Table 1: ESA-listed species and/or critical habitat potentially present in the action area.

Species Common Name and/or Critical Habitat Name	Scientific Name	Federal Status
Northern Long-Eared Bat	<i>Myotis septentrionalis</i>	Endangered
Canada Lynx	<i>Lynx canadensis</i>	Threatened
Gray Wolf	<i>Canis lupus</i>	Threatened
Monarch Butterfly	<i>Danaus plexippus</i>	Proposed Threatened
Suckley's Cuckoo Bumble Bee	<i>Bombus suckleyi</i>	Proposed Endangered

Pursuant to Section 7 ESA, any required consultation with the Service(s) will be conducted in accordance with 50 CFR part 402.

This notice serves as request to the U.S. Fish and Wildlife Service for any additional information on whether any listed or proposed to be listed endangered or threatened

species or critical habitat may be present in the area which would be affected by the proposed activity.

NAVIGATION: The proposed structure or activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION: Valid Section 404 permits cannot be issued for any activity unless water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The Section 401 authority for this project is Minnesota Pollution Control Agency (MPCA). A Department of the Army permit will not be granted until the MPCA has issued or waived Section 401 WQC certification and the U.S. Environmental Protection Agency (USEPA) neighboring jurisdiction process is completed. Corps Section 404 Clean Water Act decisions may not be finalized until after the USEPA completes this process.

The MPCA has indicated that this public notice serves as its public notice of the application for Section 401 water quality certification under Minnesota Rules Part 7001 Section 401 of the Clean Water Act (33 U.S. Code 1341 (a)(1)). The MPCA has indicated that if, at a later date, it makes a preliminary anti-degradation determination regarding Section 401 Water Quality Certification, it will at that time plan to issue an additional public notice under Minnesota Rules Part 7001.

Any comments relative to MPCA's Section 401 Certification for the activity proposed in this public notice may be sent to:

Minnesota Pollution Control Agency
Resource Management and Assistance Division
Attention: 401 Certification
520 Lafayette Road North
St. Paul, Minnesota 55155-4194
401Certification.PCA@state.mn.us

EVALUATION: The decision whether to issue a permit modification will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the modification proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property

ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the modification on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act. A permit will be granted unless its issuance is found to be contrary to the public interest.

COMMENTS: The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed modification. Any comments received will be considered by the Corps to determine whether to modify or deny modification of the existing permit. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The St. Paul District will receive written comments on the proposed modification, as outlined above, until July 14, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or by email to sam.p.kitchen@usace.army.mil. Please refer to the permit application number in your comments.

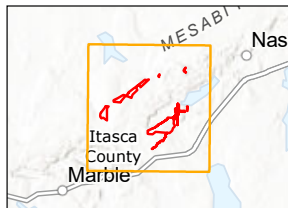
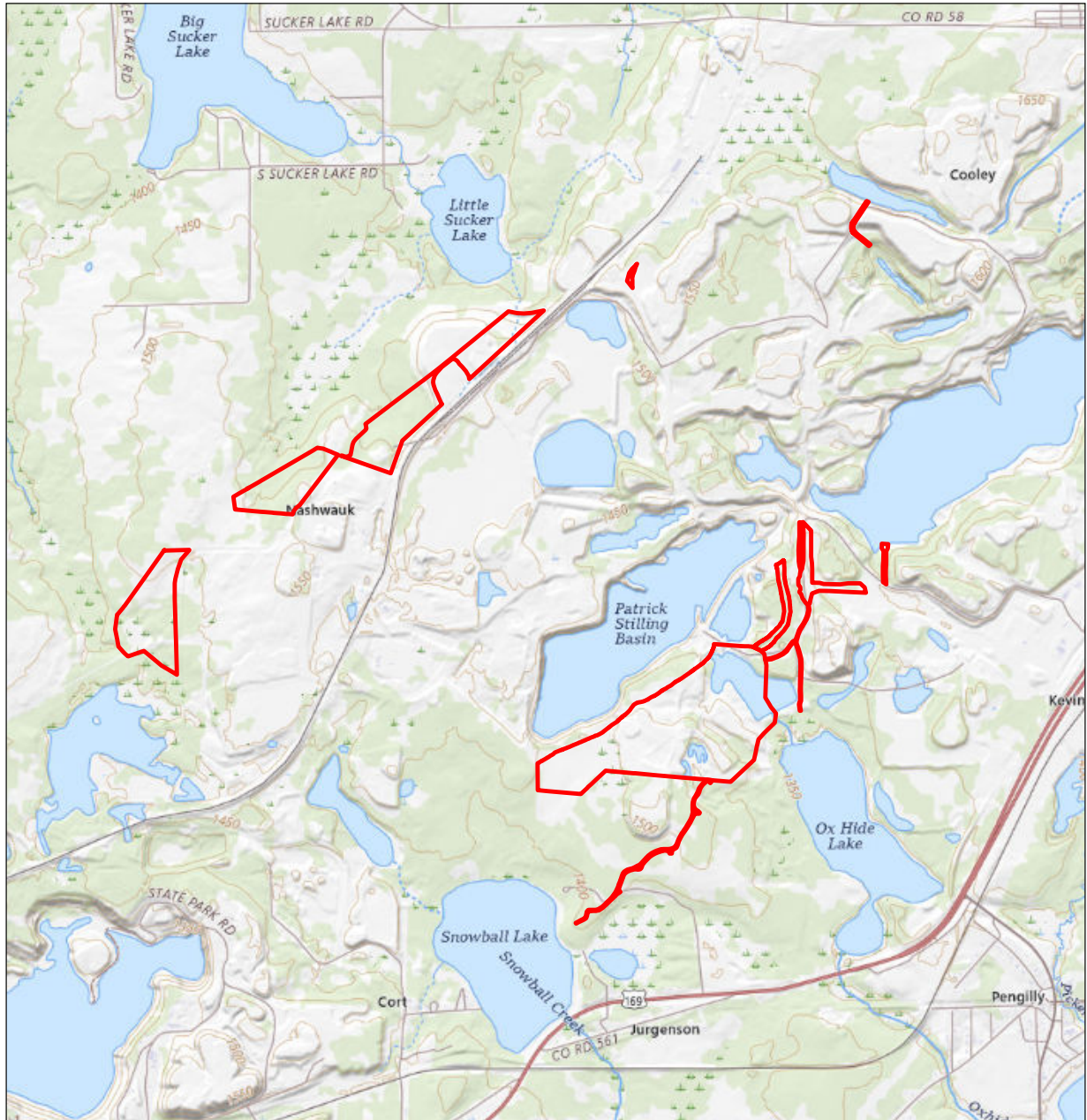
If electronic submittal is not available, you may submit comments in writing to:
Regulatory Division
St. Paul District Corps of Engineers
250 N Sunnyslope Road, Suite 296
Brookfield, WI 53005


IF YOU HAVE QUESTIONS ABOUT THE PROJECT, contact Samantha Kitchen at the Brookfield Field Office at 262-433-0652.

To receive Public Notice notifications, go to:
<https://www.mvp.usace.army.mil/Contact/RSS/> and subscribe to the RSS Feed for which you would like to receive Public Notices.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

Enclosures: MVP-2005-00546-SPK Figures 1 of 7 through 7 of 7



Legend
 Study Area

0 1,500 3,000 Feet
 (At original document size of 8.5x11)
 1:36,000



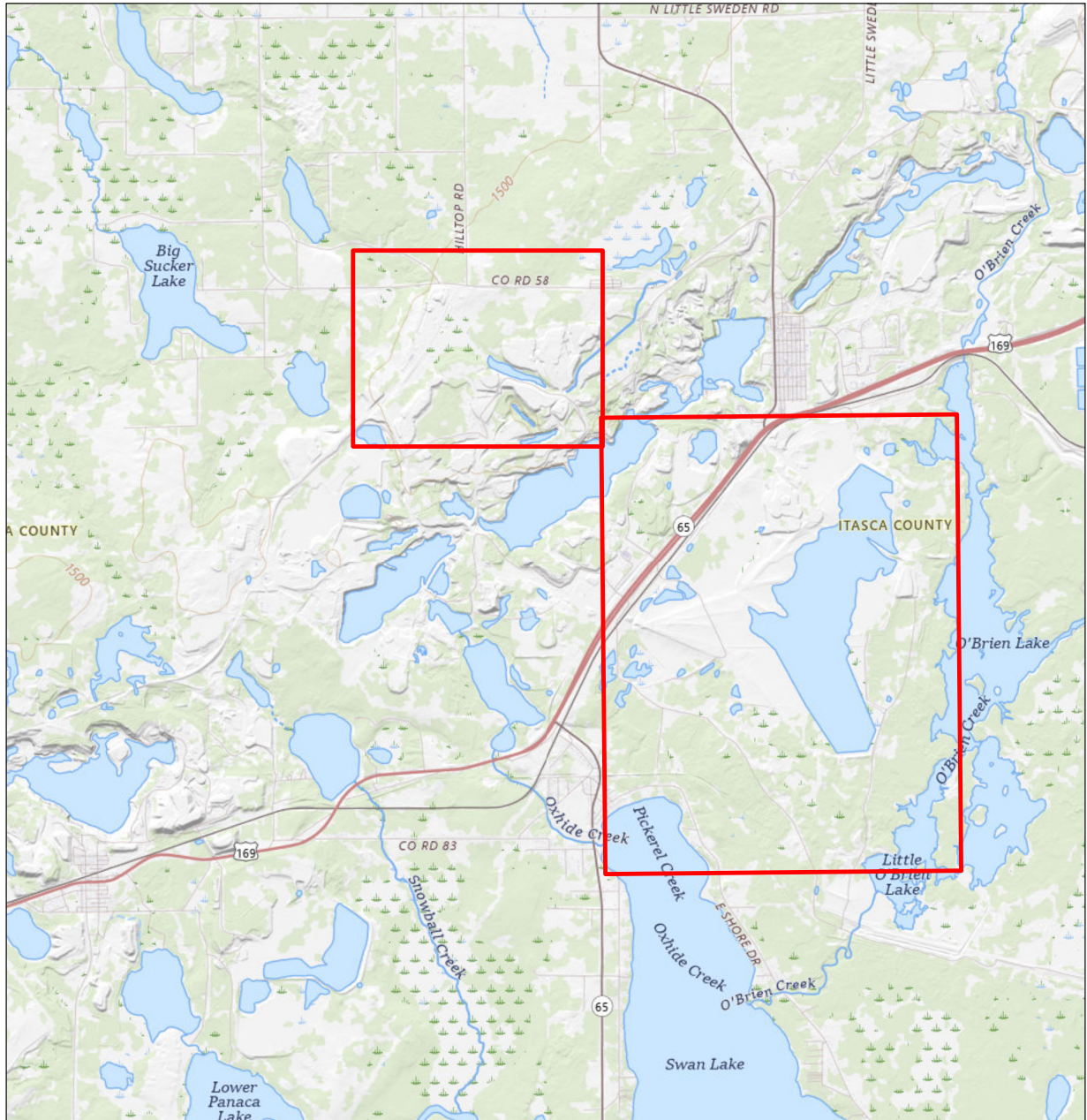
Project Location Prepared by ARH on 2024-06-13
 Pengilly, Itasca Co., MN

Client/Project 227706166
 Mesabi

Figure No.
 1

Title
Site Location Map

Notes
 1. Coordinate System: NAD 1983 HARN Adj MN
 Itasca South Feet
 2. Data Sources: USGS
 3. Background: USGS 7.5 Minute Quadrangle



Legend
 Study Area

0 3,000 6,000 Feet
 (At original document size of 8.5x11)
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Project Location
 Pengilly, Itasca Co., MN

Prepared by BS on 2024-11-01

Client/Project
 Mesabi 227706166

Figure No.
 1

Title
Site Location Map

Notes
 1. Coordinate System: NAD 1983 HARN Adj MN
 Itasca South Feet
 2. Data Sources: USGS
 3. Background: USGS 7.5 Minute Quadrangle

