



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

APPLICANT: General Public

Public Notice

ISSUED: October 11, 2018

Expires: November 13, 2018

REFER TO: 96-06788-GP-SDE
96-06789/06790-GP-SDE
96-06791-GP-SDE
96-06792-GP-SDE

SECTION: 404 - Clean Water Act

PROPOSED REAUTHORIZATION of the GENERAL PERMITS for the CITY OF SUPERIOR SPECIAL AREA MANAGEMENT PLAN

1. PURPOSE and BACKGROUND

The St. Paul District of the U.S. Army Corps of Engineers is proposing to reauthorize General Permits (GPs) for the City of Superior, Wisconsin, Special Area Management Plan (SAMP). The GPs were initially issued in December 1996 and reauthorized in May 2002 (SAMP I). The SAMP was substantially modified in 2008 and subsequently referred to as SAMP II with a 10-year timeframe. SAMP II—GPs were first authorized in November 2008, reauthorized in May 2013, and expire on December 16, 2018. In developing SAMP III, updates to wetland functional assessments and rare plant surveys were accomplished during 2017 and 2018. The proposed reauthorizations will be referred to as SAMP III—GPs.

Formulation of the SAMP began in 1990 and involved the U.S. Army Corps of Engineers (Corps), City of Superior (City), U.S. Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (FWS), Wisconsin Department of Natural Resources (DNR), and others. The SAMP program was developed to: (1) assist the Corps and DNR in providing fair and timely responses to wetland impact permit requests; and (2) facilitate natural resource management in cooperation with reasonable economic growth. Since 1996, the City has administered the SAMP program through its building permit process and requirements of the SAMP GPs.

Since their issuance in November 2008, SAMP II—GPs authorized approximately 42.3 acres of wetland impacts involving 39 projects (Table 1). To put this in perspective, during 1997-2006 SAMP I—GPs authorized approximately 93.93 acres of wetland impacts involving 32 projects.

Compensatory mitigation to offset losses of wetland functions due to SAMP II—GP authorizations has been accomplished by debiting from the City of Superior Wetland Mitigation Bank; specifically, the 118-acre Lyman Lake Road—Bear Creek Site. To date, 76.0 credits have been released for this bank site of which 56.8 have been debited leaving a current balance of 18.3 credits. The City is in the process of establishing a second bank site (Moonshine Road, 107 acres) to provide additional credits for offsetting future impacts to wetlands including those due to SAMP GP authorizations.

Table 1: SAMP-II General Permit Authorizations									
Year	SAMP Zoning District	Wetland Impacts (Acres)	Permit File No.	Project Location	Residential Wetland Impacts (Ac)	Comm. Wetland Impacts (Ac)	Industrial Wetland Impacts (Ac)	Public Wetland Impacts (Ac)	Instit. Wetland Impacts (Ac)
2009	Residential	0.60	09-01	S1-22-56	0.60				
	Commercial	0.39	09-02	S3-13-05				0.39	
	Industrial	3.50	09-03	S3-36-32			3.50		
	Residential	0.15	09-05	S2-26--6	0.15				
	Commercial	4.40	09-06	S2-27-15.1		4.40			
	Public	1.27	09-07	S2-2-29				1.27	
	Industrial	7.14	09-08	S3-36-31			7.14		
	Subtotal	17.45			0.75	4.40	10.64	1.66	0.00
2010	Commercial	0.04	10-02	S3-19-22		0.04			
	Residential	0.04	10-03	S3-24-16	0.04				
	Residential	0.13	10-04	S2-26-6	0.13				
	Commercial	1.49	10-05	S3-13-1		1.49			
	Subtotal	1.70			0.17	1.53	0.00	0.00	0.00
2011	Industrial	5.85	11-01	Parkland			5.85		
	Residential	0.30	11-02	S4-30-07	0.30				
	Subtotal	6.15			0.30	0	5.85	0.00	0.00
2012	Residential	0.34	12-01	S2-26-6	0.34				
	Industrial	0.26	12-02	S1-16-17			0.26		
	Residential	0.35	12-03	S3-24-13.1	0.35				
	Residential	0.21	12-04	S4-30-20	0.21				
	Subtotal	1.16			0.90	0.00	0.26	0.00	0.00
2013	Commercial	1.05	13-01	S3-26-29		1.05			
	Residential	0.19	13-02	S2-2-27.2	0.19				
	Industrial	0.03	13-03	S3-36-32A			0.03		
	Residential	0.06	13-04	S4-30-07	0.06				
	Subtotal	1.33			0.25	1.05	0.03	0.00	0.00
2014	Residential	0.06	14-01	S4-30-15	0.06				
	Commercial	0.07	14-02	S2-27-15.1		0.07			
	Residential	0.04	14-03	S2-35-19	0.04				
	Subtotal	0.17			0.10	0.07	0.00	0.00	0.00
2015	Commercial	0.61	15-01	S2-34-23		0.61			
	Industrial	0.03	15-02	S3-36-32			0.03		
	Commercial	1.55	15-03	S3-26-29		1.55			
	Residential	0.33	15-04	S3-13-07	0.33				
	Commercial	1.29	15-05	S3-26-29		1.29			
	Residential	2.50	15-06	S2-34-21	2.50				
	Subtotal	6.31			2.83	3.45	0.03	0.00	0.00
2016	Commercial	0.09	16-01	S3-13-03		0.09			
	Commercial	0.06	16-02	S3-13-01		0.06			
	Residential	0.22	16-03	S3-24-13	0.22				
	Subtotal	0.37			0.22	0.15	0.00	0.00	0.00
2017	Residential	0.18	17-01	S2-26-06	0.18				
	Residential	2.03	17-02	S2-34-21	2.03				
	Subtotal	2.21			0.18	0.00	0.00	0.00	0.00
2018	Commercial	0.21	18-01	S1-23-39		0.21			
	Industrial	2.80	18-02	S4-36-11			2.80		
	Industrial	0.60	18-03	S3-36-32			0.60		
	Residential	1.85	18-04	S3-13-03A	1.85				
	Subtotal	5.46			1.85	0.21	3.40	0.00	0.00
Total Fill Ac. (2007- June 2018)		42.31			9.58	10.86	20.21	1.66	0.00
Total Fill Ac. Allowed thru SAMP		140.00			40.00	75.00	15.00	10.00	
Total Fill Ac. Remaining		97.69			30.42	43.93	13.34	10.00	

The same criteria applied to SAMP II is proposed for SAMP III: a 10-year timeframe and cap of 140.0 acres of wetland impacts broken out by categories of activities that are similar in nature (Table 2).

Table 2: Proposed SAMP III—GPs	
Project Classification	Acres of Adverse Wetland Impacts (10-year period)
Residential	Up to 40
Public	Up to 15
Institutional	Up to 10
Commercial/Industrial	Up to 75

SAMP III—GPs would adopt the same limit of 10.0 acres of adverse impacts to wetlands for a single and complete project as that implemented for SAMP II. Adverse impacts include placement of dredged/fill materials as well as other activities including excavation and drainage of wetlands. A “single and complete project” is defined at 33 CFR 330.2(i) as the overall project proposed or accomplished by one owner/ developer or partnership or other association of owners/developers. The project must have independent utility and may not be “piecemealed” to avoid the limits of a SAMP GP authorization. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend on other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Projects exceeding 10.0 acres of adverse impacts to wetlands are not eligible for SAMP III—GP authorizations. Instead, those projects would be evaluated as individual Section 404 permit applications.

Eligible projects for SAMP III—GP authorizations include any residential, public, commercial/industrial, or institutional project within the corporate limits of the City of Superior meeting all current state, county, and local building requirements and zoning ordinances/laws. SAMP III—GPs would not be issued for projects involving speculative fill. A site plan must be provided for all projects including all proposed buildings and improvements to the property.

A pre-construction notification to the Corps is required for each proposed project. All SAMP III—GP applications would require applicants to provide a wetland delineation (in accordance with the *Corps of Engineers Wetlands Delineation Manual* and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral/Northeast Region*) by a qualified wetland delineator; a survey for state- and/or federally-listed threatened, endangered, or special concern plants by a qualified plant ecologist/ botanist; a detailed site plan showing wetland impacts and measures to avoid or minimize wetland impacts on-site; and intent to purchase wetland mitigation credits from the City’s mitigation, bank or propose some other form of wetland compensation acceptable to the Corps.

In accordance with Corps regulations, all GPs expire in five years. This provides an opportunity for a mid-term review of the SAMP III—GPs.

Process to Determine Wetlands Potentially Eligible for SAMP GP Authorizations. For SAMP II, the City conducted wetland functional assessments based on the Routine Assessment Method (RAM) developed for the State of Minnesota and modified for the City by the Corps, DNR, FWS and EPA. Assessments determined the general quality of wetlands in the City in each of six functional categories including plant habitat integrity; water quality integrity; wildlife habitat integrity; flood and stormwater attenuation; hydrologic integrity; and public values (recreation, aesthetics, cultural, scientific, etc.) as well as several special features related to zoning restrictions (shoreland wetland areas and floodplains); known occurrences of state- or federally-listed threatened, endangered, or special concern plants and animals; and areas

designated as environmentally sensitive.

Wetlands with high-rated plant habitat integrity or high-rated wildlife habitat integrity, and many with medium ratings for plant or wildlife habitat integrity, are not eligible for SAMP GPs. Additionally, wetlands within shoreland wetlands or floodplain zoning designations; sites with known occurrences of federally-listed threatened (T), endangered (E), or special concern (SC) plant species; sites within designated environmentally sensitive areas; and sites identified by the DNR as important wildlife corridors; are not eligible for SAMP GPs. Those wetlands with low to medium functional ratings for plant and wildlife habitat integrity, and no special features, were considered potentially eligible for the SAMP GPs.

Sites not rated high for plant habitat integrity but supporting state-listed T/E/SC plant species¹ would not be automatically ineligible for SAMP GPs. If a particular project is modified to avoid or adequately minimize adverse impacts to state-listed T/E/SC plant species, a SAMP III—GP could authorize the project. If this is not the case, the applicant would be directed to apply for an individual Section 404 permit.

SAMP II considered the GP eligibility of 5,579 acres of wetlands within the City limits. Of those, 1,097 acres were determined potentially eligible for SAMP II—GP authorizations with a cap of 140 acres of wetland impacts over its 10-year life span.

It was recognized that, for SAMP III, the wetland functional assessments and rare plant surveys needed to be updated. Rather than reevaluate the entire 5,579 acres of wetlands, the City targeted a subset of wetlands previously deemed eligible for SAMP GPs, i.e., more degraded wetlands. This avoided the time/cost to inventory higher quality wetlands that were likely to remain ineligible for SAMP GP authorizations. Three hundred thirty wetlands consisting of approximately 1,268 acres were selected for updates to functional assessments and rare plant surveys. Figures 1 and 2 illustrate these wetlands.

Special Conditions. During the review process for each SAMP III—GP application, the Corps has the option of applying one or more special conditions. Special conditions will be reviewed by the City to determine the City's capacity to enforce the special condition. If the City determines that it is not able to effectively enforce the condition based on staff experience, availability, and other resources, the SAMP III—GP would be denied and the applicant directed to the Corps individual permit process. The City does not retain the authority to apply special conditions to a SAMP III—GP authorization, only to enforce the implementation of the special condition by the permittee.

Compensatory Mitigation. Compensatory mitigation for wetland impacts due to SAMP III—GPs would be accomplished by the City through its Wetland Mitigation Bank. The bank received interagency approval in October 2008 and an Interagency Review Team (IRT) reviews monitoring reports, recommends credit releases as appropriate, and evaluates proposed additional bank sites. Compensatory wetland mitigation may also be provided on-site or off-site, independent of the City's wetland mitigation bank, if the applicant provides a suitable compensation site plan, or if the applicant wishes to purchase compensatory wetland mitigation credits from an approved wetland mitigation bank within the Lake Superior Watershed.

2. REPLIES/COMMENTS

Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability and adequacy of the proposal and should, if appropriate, suggest any changes believed to be desirable.

¹ Some of the state-listed rare species (e.g., seaside crowfoot) are adept at colonizing exposed soils, newly created shallow pools, etc., that may be associated with disturbed sites with an overall plant community that is rated medium or low.

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SUBJECT: Proposed Reauthorization of City of Superior SAMP General Permits

Replies may be addressed to Regulatory Branch, ATTN: Steve Eggers, St. Paul District, Corps of Engineers, 180 Fifth Street East, Suite 700, Saint Paul, MN 55101-1678.

Or, if you have questions about SAMP GPs, call Steve Eggers in the St. Paul District office of the Corps, at (651) 290-5371, or e-mail: steve.d.eggers@usace.army.mil

To receive Public Notices by e-mail, go to: http://mvp-extstp/list_server/ and add your information in the New Registration Box.

3. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT

Douglas County is within the known or historic range of the following Federally-listed threatened (T) and endangered (E) species:

<u>Species</u>	<u>Status</u>	<u>Habitat</u>
Gray Wolf (<i>Canis lupus</i>)	E	Northern forested areas
Canada Lynx (<i>Lynx canadensis</i>)	T	While no resident populations are known from Wisconsin, the species occasionally occurs in northern forested areas, and counties listed are those with the highest likelihood of occurrence.
Kirtland's Warbler (<i>Setophaga kirtlandii</i>)	E	Potential breeding in young jack pine stands (5 to 25 years old).
Piping Plover (<i>Charadrius melodus</i>)	E	Sandy beaches; bare alluvial and dredge spoil islands
Northern Long-eared Bat (<i>Myotis septentrionalis</i>)	T	Hibernates in caves and mines—swarming surrounding wooded areas in autumn. Roosts and forages in upland forests during spring and summer.
Rufa Red Knot (<i>Calidris canutus rufa</i>)	T	Along Lake Superior
Fassett's Locoweed (<i>Oxytropis campestris</i> var. <i>chartacea</i>)	T	Open, sandy lakeshores

This proposal is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the proposed SAMP III-GPs.

State-Listed Species. Fieldwork in the 1990s associated with developing SAMP I discovered that wetlands within the City's red clay plain support a concentration of state-listed special concern, threatened and endangered plant species. Thus, a requirement for rare plant surveys was incorporated into the SAMP GP approval process as have measures to avoid, minimize and compensate for adverse impacts to rare plant

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populations. This includes a standard operating procedure (decision flow chart) for mitigation of impacts to state-listed T/E/SC species developed in cooperation between the SAMP Technical and Advisory Committee and the DNR-Bureau of Endangered Resources. State-listed rare plants found within the City include:

- Arrowhead sweet coltsfoot (*Petasites sagittatus*)—Threatened
- Seaside crowfoot (*Ranunculus cymbalaria*)—Threatened
- Smooth black sedge (*Carex nigra*)—Special Concern
- Neat spikerush (*Eleocharis nitida*)—Endangered
- Vasey’s rush (*Juncus vaseyi*)—Special Concern
- Clustered bur-reed (*Sparganium glomeratum*)—Threatened

4. JURISDICTION

Applications submitted for authorization under SAMP III—GPs would be reviewed in accordance with the practices for documenting Corps jurisdiction under Sections 9 & 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act identified in Regulatory Guidance Letter 16-01.

5. STATE SECTION 401 WATER QUALITY CERTIFICATION

The state Section 401 authority in Wisconsin is the Wisconsin Department of Natural Resources (DNR). Each applicant for a SAMP III—GP authorization would need to obtain either an individual Section 401 water quality certification from the DNR, or a state general permit authorized by the DNR. Any conditions required for Section 401 certification would become conditions of the SAMP III—GP authorization for that particular project.

6. HISTORICAL/ARCHAEOLOGICAL

The City would conduct an initial review of applications for SAMP III—GPs using the Wisconsin Historic Preservation Database, which is maintained by the State Historic Preservation Office (SHPO). Applications for SAMP III—GPs sent to the Corps and the DNR would also be screened to determine the proposed activity’s potential affect on historic properties. Depending on the outcome of that review, cultural resource surveys and coordination with the SHPO and other consulting parties may be required.

Implementation for the SAMP III—GPs would not affect the Corp’s responsibility to insure that all Section 404 authorizations comply with Section 106 of the National Historic Preservation Act. Most activities authorized under the SAMP III—GPs have the potential to affect historic properties; however, the GPs would not authorize any work that would affect a known historic property prior to satisfaction of the Corps’ responsibilities under Section 106.

7. PUBLIC HEARING REQUESTS

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. A public hearing regarding the proposed SAMP I—GPs was held in Superior, Wisconsin on May 14, 1996.

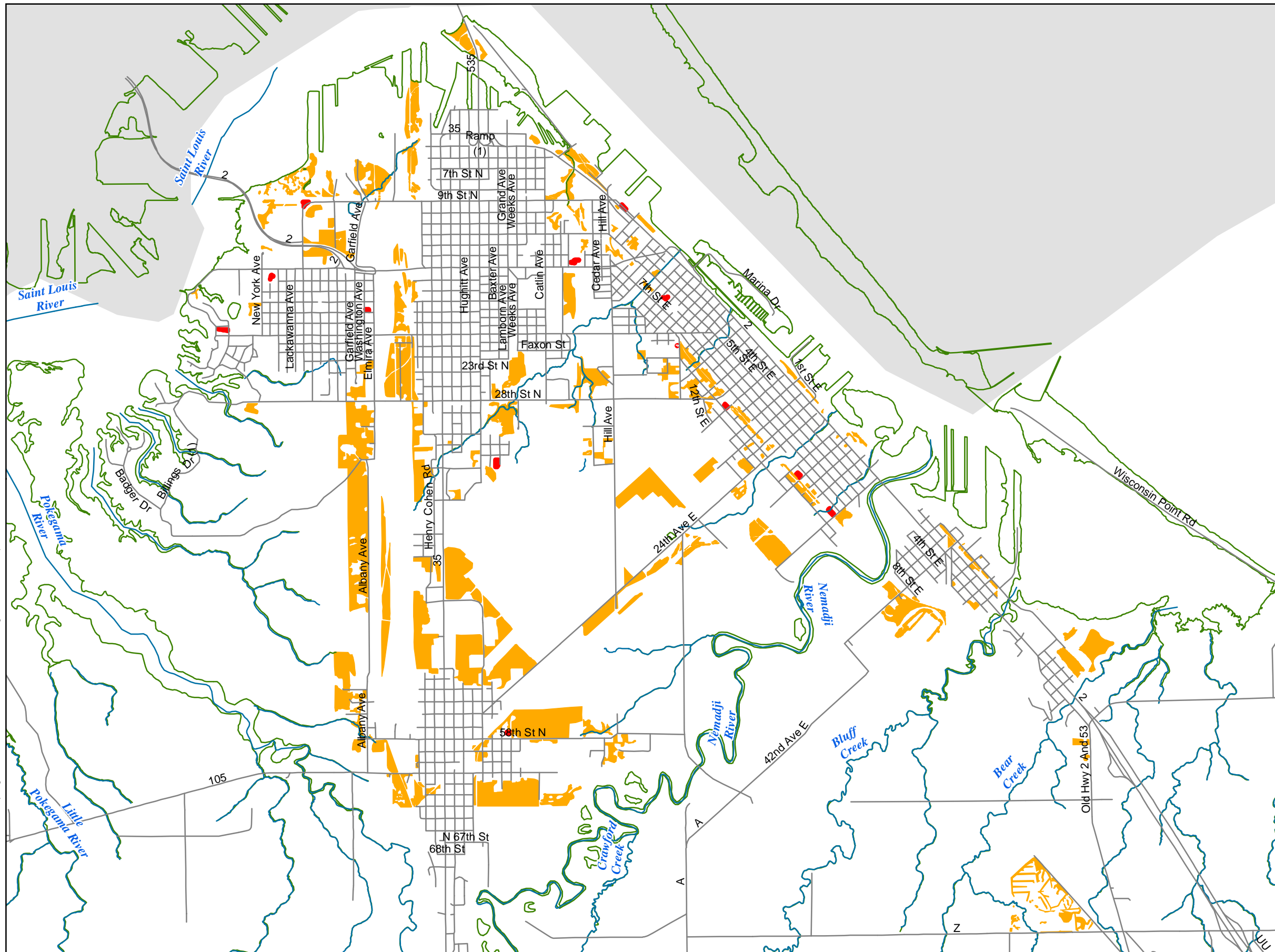
8. PUBLIC INTEREST REVIEW

The decision whether to reauthorize these GPs 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 benefit 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 proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, 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 and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.


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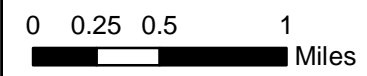
Chad Konickson
Chief, Regulatory Branch

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Legend

-  Roadways
-  Water Courses
-  Target Wetlands
-  Target Wetlands Added 2018



This map is neither a legally recorded map nor a survey map and is not intended to be used as one. This map is a compilation of records, information, and data gathered from various sources listed on this map and is to be used for reference purposes only. SEH does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and SEH does not represent that the GIS Data can be used for navigational, tracking, or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. The user of this map acknowledges that SEH shall not be liable for any damages which arise out of the user's access or use of data provided.



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Project: SUPER 142776
Print Date: 6/28/2018

Map by: NWHITE
Projection: NAD 83, UTM 15N
Source: City of Superior, WDNR, SEH, MNDNR

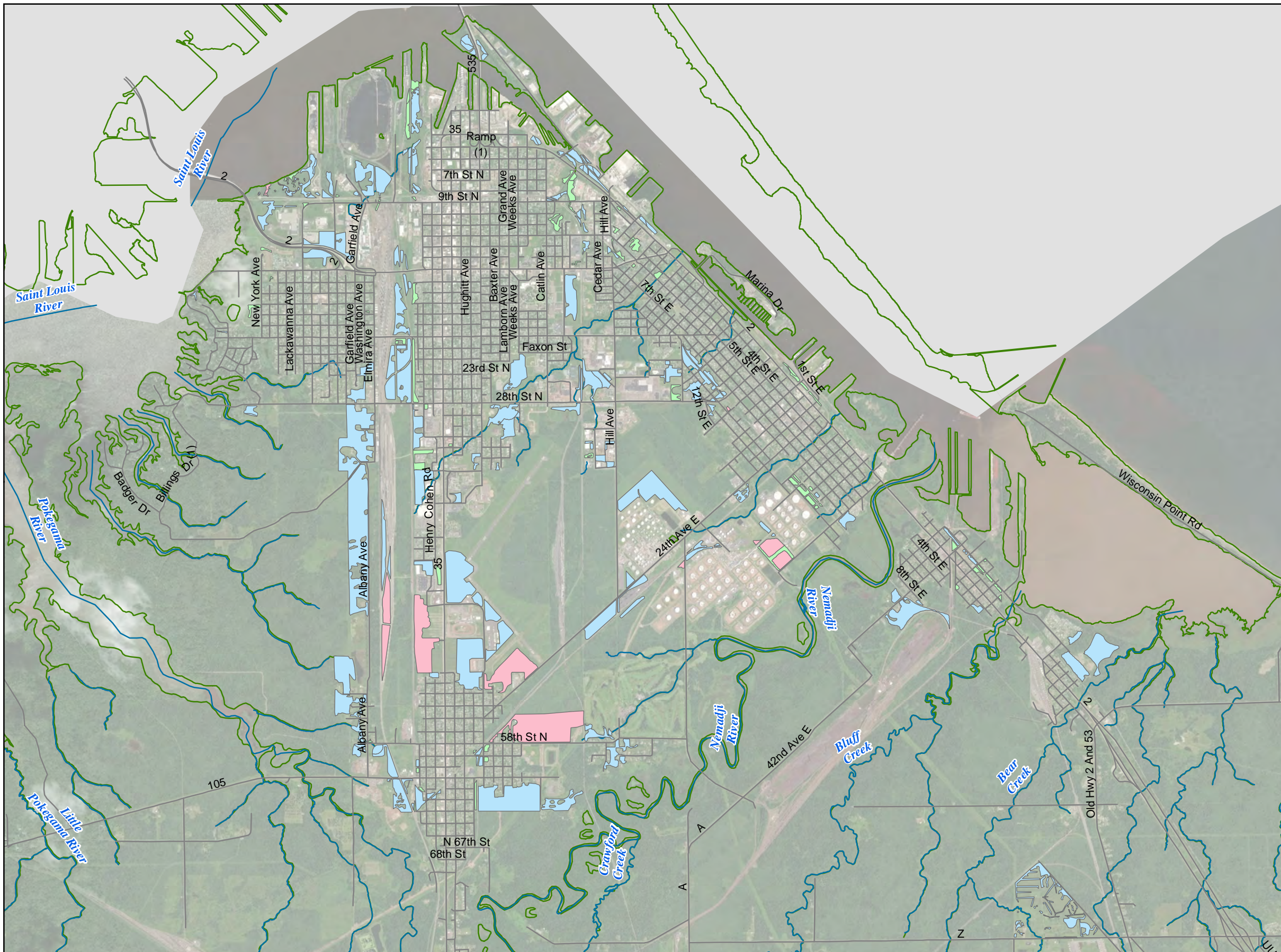
SAMP III WETLAND ASSESSMENTS

City of Superior, Douglas County, Wisconsin

**Project Location
Map**

**Figure
1**

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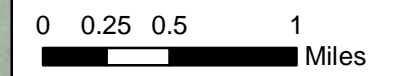


Legend

- Roadways
- Water Courses

Plant Community Integrity

- High
- Medium
- Low



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SAMP III WETLAND ASSESSMENTS

City of Superior, Douglas County, Wisconsin

Plant Community Integrity Summary Map

Figure 2