**DEPARTMENT OF THE ARMY**
**U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT**
**332 MINNESOTA STREET, SUITE E1500**
**ST. PAUL, MN 55101-1323**

June 3, 2025

Regulatory File No. MVP-2007-00060-BBY

Aequitas Properties, LLC
c/o Maureen O'Neil
Moneil372@aol.com

Dear Maureen O'Neil,

This letter contains an Approved Jurisdictional Determination (AJD) for the areas identified below, located on the 101st Avenue NE – O'Neil Property in Section 23, Township 31 North, Range 23 West, Anoka County, Minnesota. This letter supersedes the AJD issued on January 24, 2025. The review area for this determination is identified on the enclosed figures labeled: **MVP-2007-00060-BBY Pages 1 and 2 of 16**.

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

We have determined that the following areas 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:

- Ditch 1 (D1) - 800 linear feet, non-jurisdictional
- Ditch 2 (D2) - 340 linear feet, non-jurisdictional
- Wetland 1 (W1) - 1.04 acre, non-jurisdictional
- Wetland 2 (W2) - 0.61 acre, non-jurisdictional
- Wetland 3 (W3) - 0.20 acre, non-jurisdictional
- Wetland 4 (W4) - 1.03 acre, non-jurisdictional
- Wetland 5 (W5) - 0.24 acre, non-jurisdictional
- Wetland 6 (W6) - 0.03 acre, non-jurisdictional
- Wetland 7 (W7) - 0.04 acre, non-jurisdictional

You are not required to obtain Corps authorization within the areas listed above. This determination only applies to the areas 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.

**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 me in our St. Paul at 651-286-9825 or Brian.b.yagle@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,

Brian Yagle
Regulatory Ecologist

Enclosures
AJD MFR, Appeals Form

cc:
Erin Edison, LGU (eedison@cooncreekwd.org)
Ben Meyer, BWSR (ben.meyer@state.mn.us)
Melissa Collins, MN DNR (melissa.collins@state.mn.us)
Brian Oberlies, Corps

**DEPARTMENT OF THE ARMY**
**U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT**
**332 MINNESOTA STREET, SUITE E1500**
**ST. PAUL, MN 55101-1678**

CEMVP-RD June 03, 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-2007-00060-BBY 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.

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).

        i. Wetland 1 (W1) - 1.04 acre, non-jurisdictional
        ii. Wetland 2 (W2) - 0.61 acre, non-jurisdictional
        iii. Wetland 3 (W3) - 0.20 acre, non-jurisdictional
        iv. Wetland 4 (W4) - 1.03 acre, non-jurisdictional
        v. Wetland 5 (W5) - 0.24 acre, non-jurisdictional
        vi. Wetland 6 (W6) - 0.03 acre, non-jurisdictional
        vii. Wetland 7 (W7) - 0.04 acre, non-jurisdictional
        viii. Ditch 1 (D1) - 800 linear feet, non-jurisdictional
        ix. Ditch 2 (D2) - 340 linear feet, non-jurisdictional

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. _, 143 S. Ct. 1322 (2023)

    d. January 2023 Rule preamble at 88 FR 3090

3. REVIEW AREA. The review area is approximately 16.21 acres in size and is identified in the red polygon on figure MVP-2007-00060-BBY Page 2 of 16. The project area is located at latitude 45.152943 N, longitude -93.238210 W in Section 29, Township 31 North, Range 23 West, City of Blaine, Anoka County, Minnesota. Multiple previous JDs were issued for this site. An AJD and preliminary jurisdictional determination (PJD) was issued for the site on January 8, 2007. This AJD found that Wetlands 3, 4, 5, 6, and 7 were non-jurisdictional and a PJD was issued for Wetlands 1 and 2. The expiration date for the AJD and PJD issued on January 8, 2007, was extended an additional five years in a letter dated September 9, 2010. An AJD was issued on January 24, 2025. This AJD found that Wetlands 3, 4, 5, 6, and

7 were non-jurisdictional and Wetlands 1 and 2 and Ditches 1 and 2 were jurisdictional.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. Mississippi River which is approximately 4.5 miles southwest of the review area.

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. N/A

6. SECTION 10 JURISDICTIONAL WATERS[6]: 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.[7] 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] 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.

[7] 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).[8] 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).

Because the Supreme Court in Sackett adopted the Rapanos plurality standard and the 2023 rule preamble discussed the Rapanos plurality standard, the implementation guidance and tools in the 2023 rule preamble that address the regulatory text that was not amended by the conforming rule, including the preamble relevant to the Rapanos plurality standard incorporated in paragraphs (a)(3), (4), and (5) of the 2023 rule, as amended, generally remain relevant to implementing the 2023 rule, as amended.

A site visit took place on October 1, 2024 (see attached 20241001 Site Visit MFR). The tributary identified as Ditch D1 did not contain surface water during the site visit, but we observed a well-defined, sparsely vegetated channel. Surface water was observed in the tributary identified as Ditch D2 during the site visit along with a well-defined, sparsely vegetated channel. A review of Google Earth aerial imagery (see Figures MVP-2007-00060-BBY Pages 5-13 of 16) from 4/5/2017, 4/28/2018, 10/25/2019, 3/31/2020, 4/18/2020, 4/21/2020, 5/3/2020,

[8] 88 FR 3004 (January 18, 2023)

6/2/2020, 4/24/2024) indicates that flowing or standing water is present in both ditches during certain times of the year, the spring, meeting the relatively permanent standard.

However, Ditches D1 and D2 do not contribute flow to a paragraph (a)(1) water. Our January 24, 2025 AJD determined that Ditches D1 and D2 contributed flow to the Mississippi River, paragraph (a)(1) water, based on available information at the time issuance including aerial imagery, LIDAR, stormwater maps, the site visits conducted on October 1, 2024 and November 6, 2024, and a hydrologic study conducted by HDR Engineering in 2005. The January 24, 2025 AJD largely depended on the 2005 hydrologic study and survey data which stated that water flowed south through a culvert under 99th Avenue NE unless the culvert was blocked by debris. The study did not mention this, but the culvert under 99th Avenue NE enters a public ditch system which eventually discharges into the Mississippi River. The study stated that if the 99th Avenue NE culvert was blocked, the hydrology of the entire system would back up and flow northeast through the TH-65 culvert system. The study suggested that the entire system flowed south, towards the Mississippi, if the 99th Avenue NE culvert was unobstructed, but we never observed any water leaving the property via the 99th Avenue NE culvert. On May 21, 2025, we conducted a site visit (See attached 20250521 Site Visit MFR ) after the City of Blaine, Minnesota received approximately 4.2 inches inches of rain from May 19 to 0600 on May 21, 2025. We observed no water flowing though the culvert under 99th Avenue NE during that site even with the large rain event that had recently occurred. We observed that surface water was still approximately 4 feet away from the culvert during the site visit. It appears that Ditches D1 and D2 transport water from Wetlands 1 and 2 and to the detention pond north of 99th Avenue NE, but that the water is detained on-site potentially barring extreme precipitation events. The subject property and the undeveloped property south of the subject property are very flat as indicated by LIDAR and survey data and function as a large detention basin. Based on all information available, including this site visit following a large rainfall event, these tributaries do not contribute flow to the Mississippi River. In conclusion, the tributaries identified as Ditch D1 and Ditch D2 (See Figure MVP-2007-00060-BBY Page 2 of 16) are non-jurisdictional tributaries as they do not contribute flow to a paragraph (a)(1) water, the Mississippi River.

Wetlands 1 and 2 are not TNWs, territorial seas, or interstate waters and are therefore not an (a)(1) waters. Wetlands 1 and 2 directly abut Ditches D1 and D2, as seen in the delineation, NWI map, LIDAR, aerial imagery, and the site visit that took place on October 1, 2024. Wetland 1 abuts Ditch D1 and Wetland 2 abuts Ditch D1 and Ditch D2. We determined that Ditches D1 and D2 are not

jurisdictional (see above); therefore, Wetlands 1 and 2 are do not have a continuous surface connection to a jurisdictional water.

Wetlands 3, 4, 5, 6, and 7 are not TNWs, territorial seas, or interstate waters and are therefore not an (a)(1) waters. These wetlands do not connect to any other wetlands or tributaries on or off site.

The National Wetland Inventory (NWI) has mapped Wetlands 3, 5, and 6 as a palustrine emergent, persistent, seasonally flooded, but does not denote a continuous surface connection to another aquatic resource. Wetland 7 is not mapped on the NWI. Aerial imagery and 2-foot LiDAR contours also support that Wetlands 3, 5, 6, and 7 are depressional basins with no continuous surface connection to another aquatic resource. Additionally, a field visit was conducted on October 1, 2024, and I walked the entire perimeter of Wetlands 3, 5, 6 and 7 and found no outlets or inlets. Given the information above, Wetlands 3, 4, 6, and 7 do not have a continuous surface connection to any surrounding aquatic resource.

The National Wetland Inventory (NWI) has mapped Wetland 4 as a palustrine emergent, persistent, seasonally flooded, but does not denote a continuous surface connection to another aquatic resource. Aerial imagery and 2-foot LiDAR contours also support that Wetland 4 is a depressional basins with no continuous surface connection to another aquatic resource. A remnant ditch is noticeable using LIDAR hillshade. This remnant ditch appears to provide a continuous surface connection from Wetland 4 to a Ditch D2, located south of Wetland 4. A field visit was conducted on October 1, 2024, and I walked the remnant ditch from Ditch D2 to Wetland 4 (see attached 20241001 Site Visit MFR). A low spot through the berm bordering the north side of Ditch D2 was observed at the location where the remnant ditch could enter Ditch D2, but this low spot was filled with dense vegetation with no signs of a discrete channel and no indicators of flow or erosion. The site visit also indicated that there was no discrete channel or indicators of erosion or flow in the portion of the remnant ditch immediately north of the berm. This area was filled with dense vegetation, comprised primarily of buckthorn. The only portion of remnant ditch that resembled a continuous surface connection started approximately 50 feet south of Wetland 4, extending towards Wetland 4. This area was sparsely vegetated indicating some ponding had occurred. That said, there was no indications that surface water flow was leaving Wetland 4 towards Ditch D2, rather than flowing into the Wetland 4. Additionally, this potential continuous surface connection only extended approximately 50 feet south from Wetland 4 towards Ditch D2 and Ditch D2 is approximately 200 feet south of Wetland 4. Given the information above, Wetland 4 does not have a continuous surface connection to any surrounding aquatic resource.

The areas labeled Wetlands 1, 2, 3, 4, 5, 6, and 7 (W1, W2, W3, W4, W5, W6, and W7) were evaluated as a potential (a)(4) waters but they do not have a continuous surface connection to a jurisdictional water and as such does not meet the definition of adjacent and cannot be evaluated as an (a)(4) adjacent wetland; therefore, Wetlands 1, 2, 3, 4, 5, 6, and 7 are non-tidal waters that are 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. Field visit conducted on October 1, 2024, November 6, 2024, and May 21, 2025.

   b. Office evaluation completed on June 3, 2025.

   c. United States Fish and Wildlife Service, National Wetland Inventory, reviewed in a delineation dated November 11, 2024.

   d. United States Geological Survey (USGS), National Hydrography Dataset, reviewed in a delineation dated November 11, 2024

   e. 101st Avenue NE Delineation Report dated November 18, 2022, by Kjolhaug Environmental Services Company, Inc.

   f. Google Earth aerial imagery from 1991, 2003-2006, and 2008-2024.

   g. Mississippi Valley Division Regulatory Viewer, August 22, 2024.

   h. Engineer's Report – 65-Hi Property dated October 27, 2005, by HDR Engineering, Inc.

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.

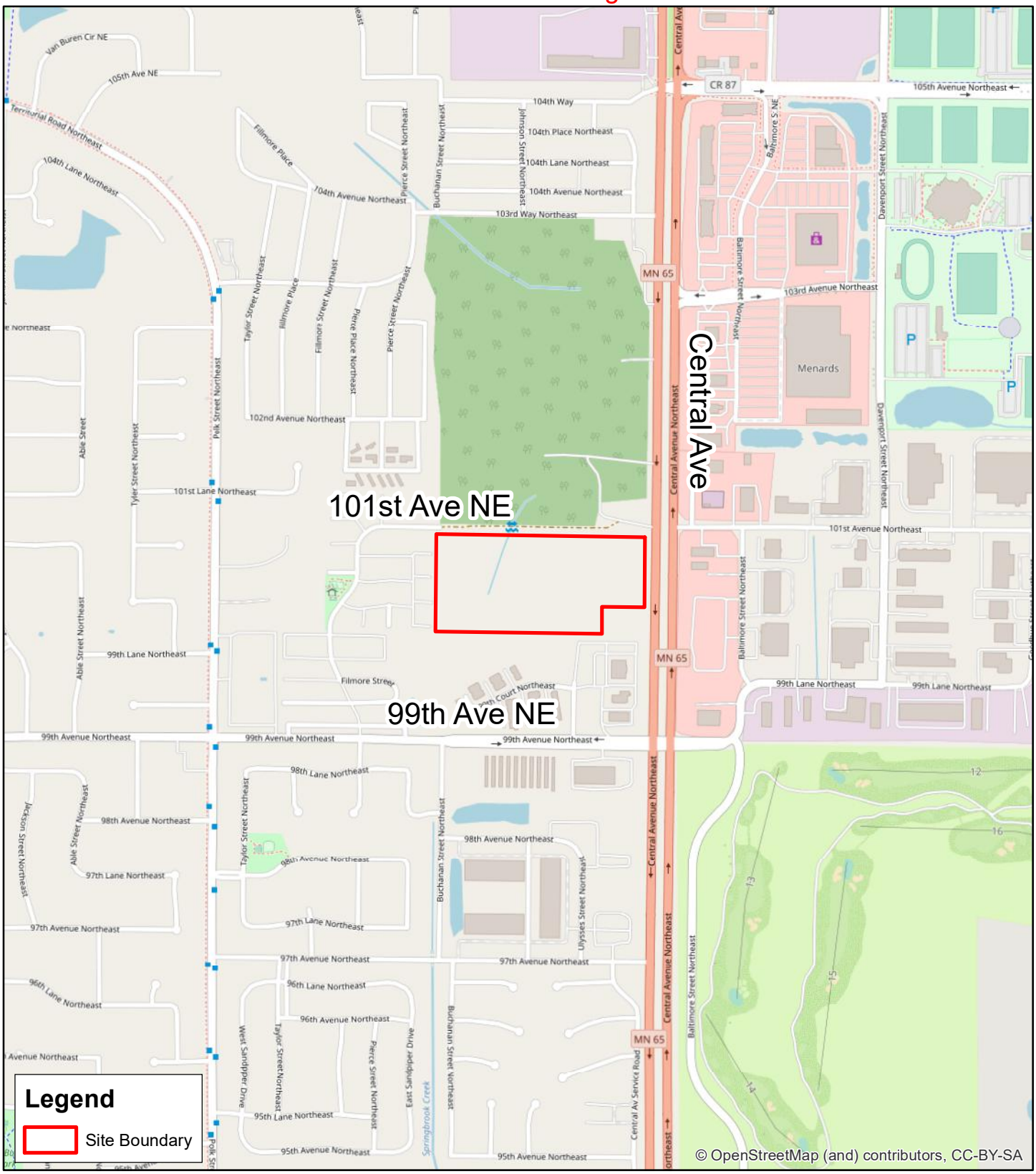



**Figure 1 - Site Location**

N

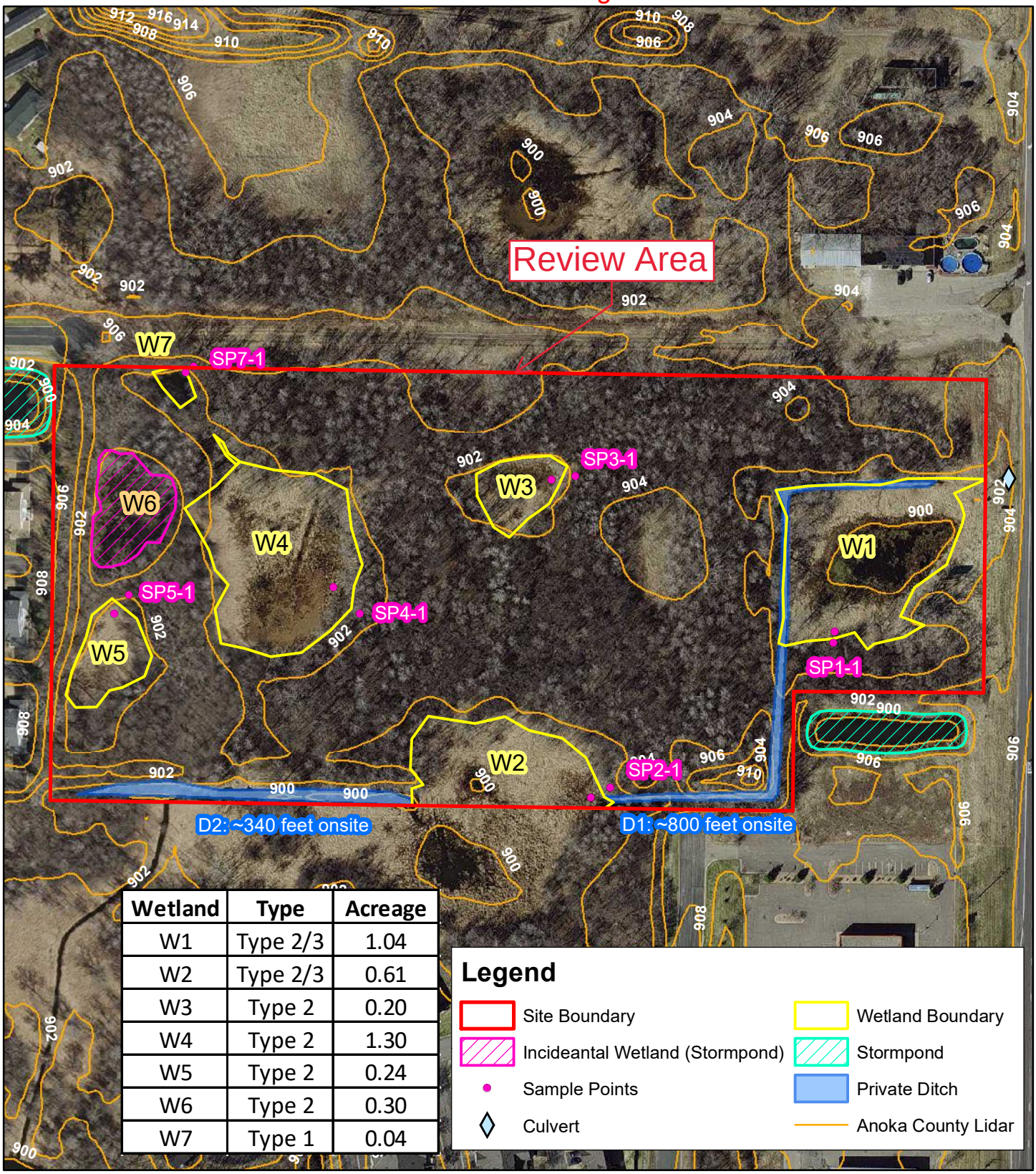
0 1,000 Feet

KJOLHAUG ENVIRONMENTAL SERVICES COMPANY

Source: MNGEO Spatial Commons, USFWS

**101st Ave NE (KES 2022-197)**
**Blaine, Minnesota**

Note: Boundaries indicated on this figure are approximate and do not constitute an official survey product.




| Wetland | Type | Acreage |
|---|---|---|
| W1 | Type 2/3 | 1.04 |
| W2 | Type 2/3 | 0.61 |
| W3 | Type 2 | 0.20 |
| W4 | Type 2 | 1.30 |
| W5 | Type 2 | 0.24 |
| W6 | Type 2 | 0.30 |
| W7 | Type 1 | 0.04 |

## 5-22-2023 Revised Figure 2 - Existing Conditions (2020 Metro Photo)

N

0 250 Feet

KJOLHAUG ENVIRONMENTAL SERVICES COMPANY

Source: MNGEO Spatial Commons

**101st Ave NE (KES 2022-197)**
**Blaine, Minnesota**

Note: Boundaries indicated on this figure are approximate and do not constitute an official survey product.


**Figure 3 - National Wetlands Inventory**

N

0 500 Feet

KJOLHAUG ENVIRONMENTAL SERVICES COMPANY

Source: MNGEO Spatial Commons, USFWS

**101st Ave NE (KES 2022-197)**
**Blaine, Minnesota**

Note: Boundaries indicated on this figure are approximate and do not constitute an official survey product.

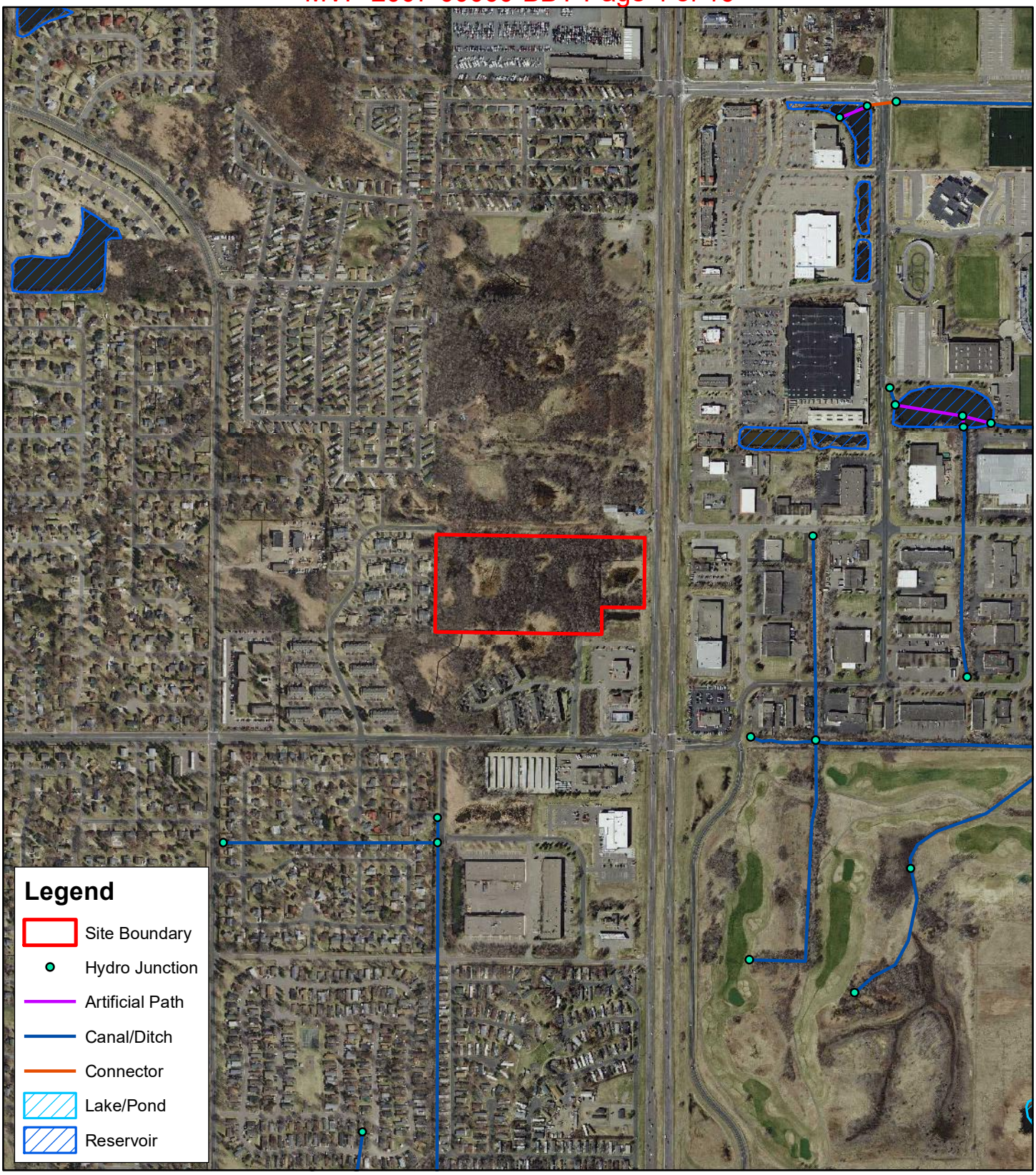



**Figure 6 - National Hydrography Dataset**

N

0 1,000 Feet

KJOLHAUG ENVIRONMENTAL SERVICES COMPANY

Source: MNGEO Spatial Commons, USFWS

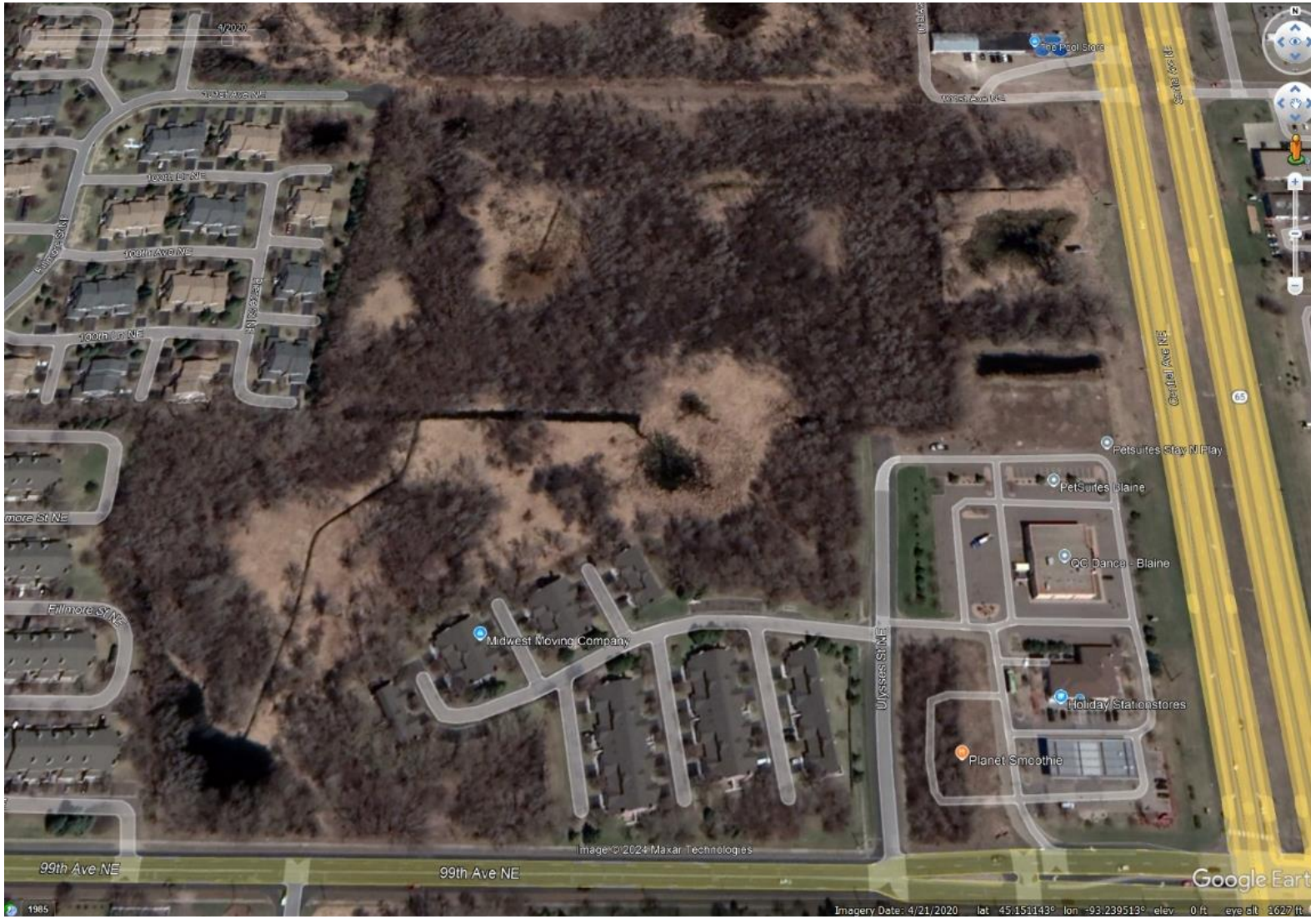
**101st Ave NE (KES 2022-197)**
**Blaine, Minnesota**

Note: Boundaries indicated on this figure are approximate and do not constitute an official survey product.

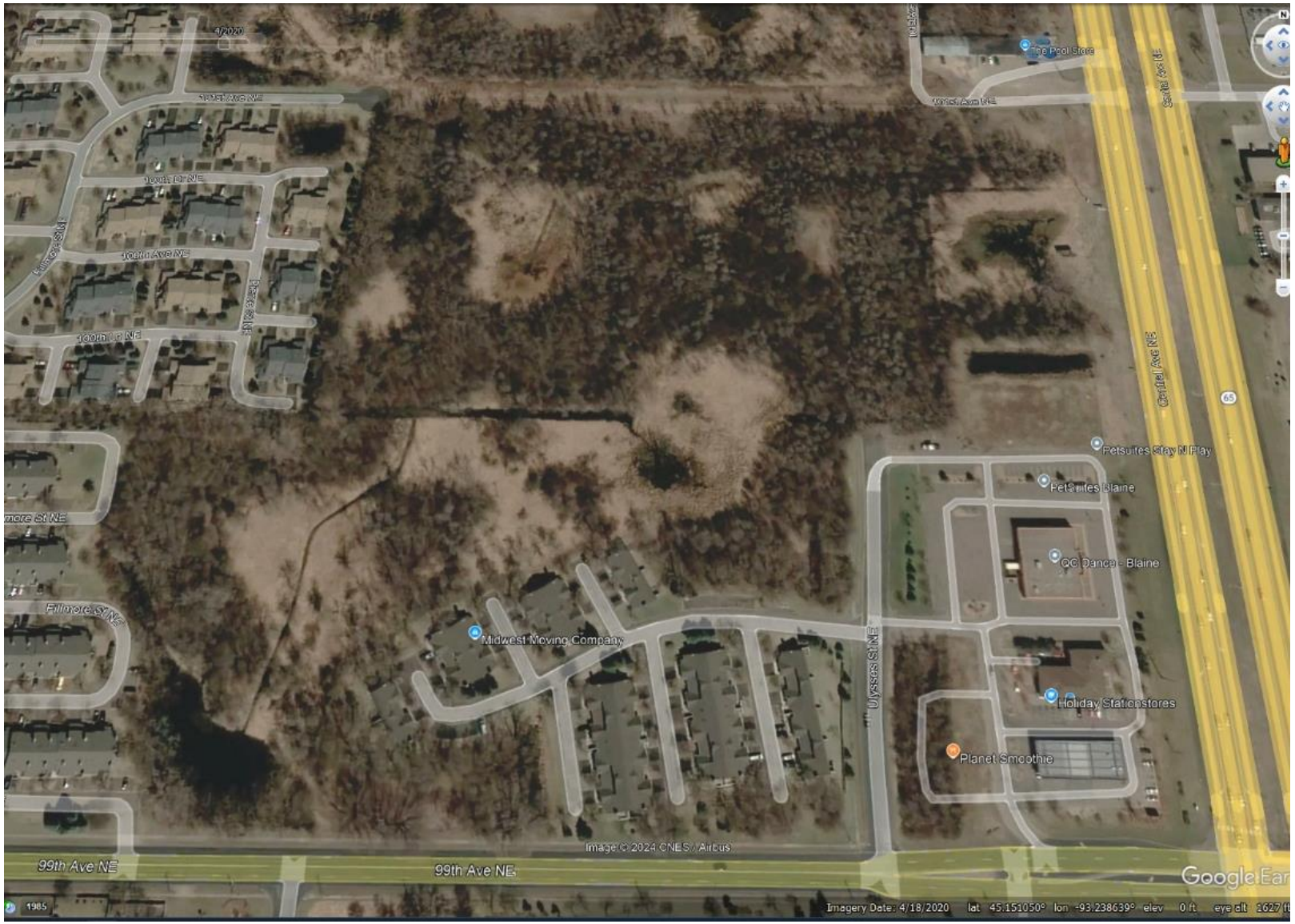

4/24/2023 Image Date


6/2/2020 Image Date

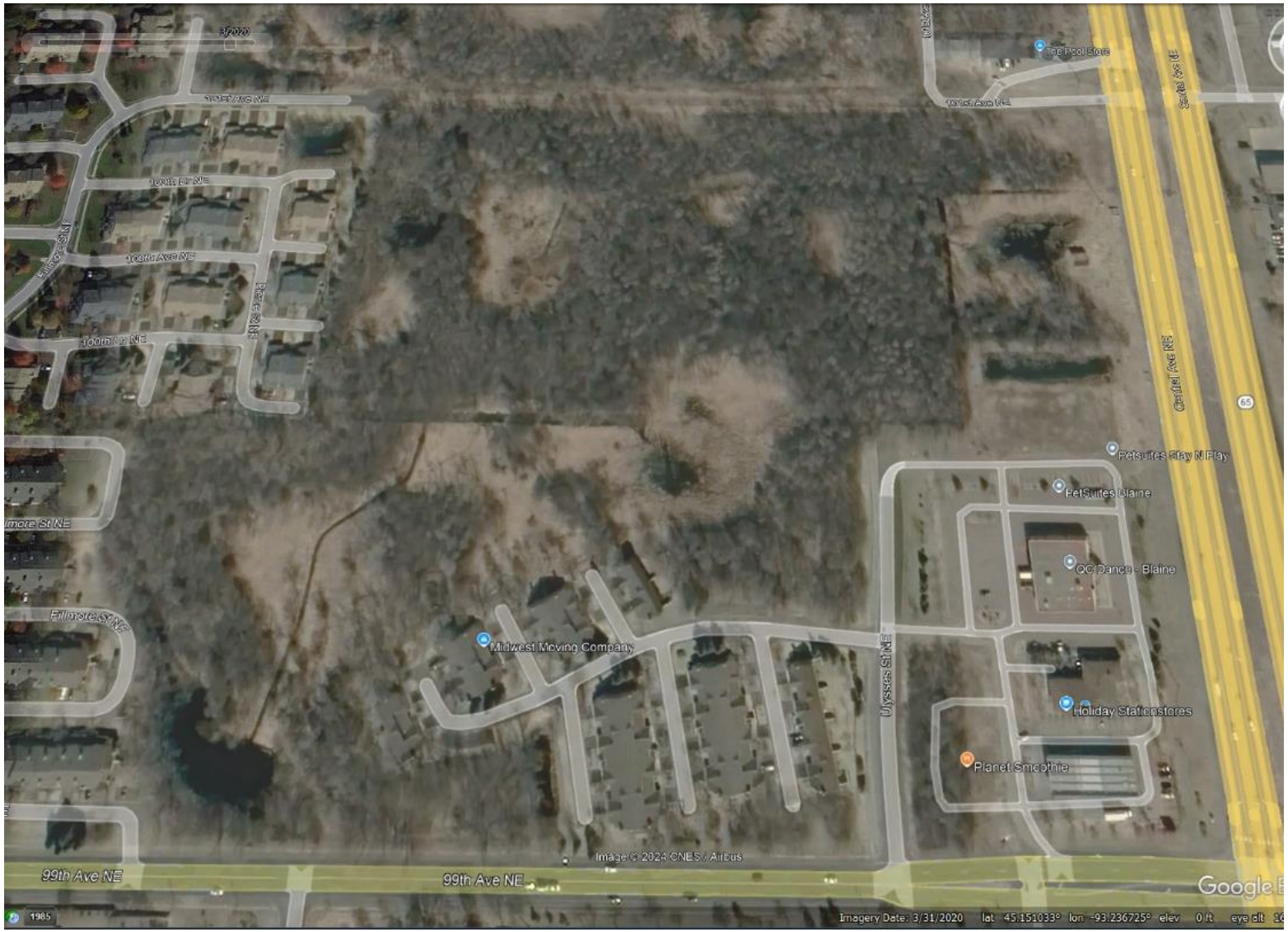

5/3/2020 Image Date



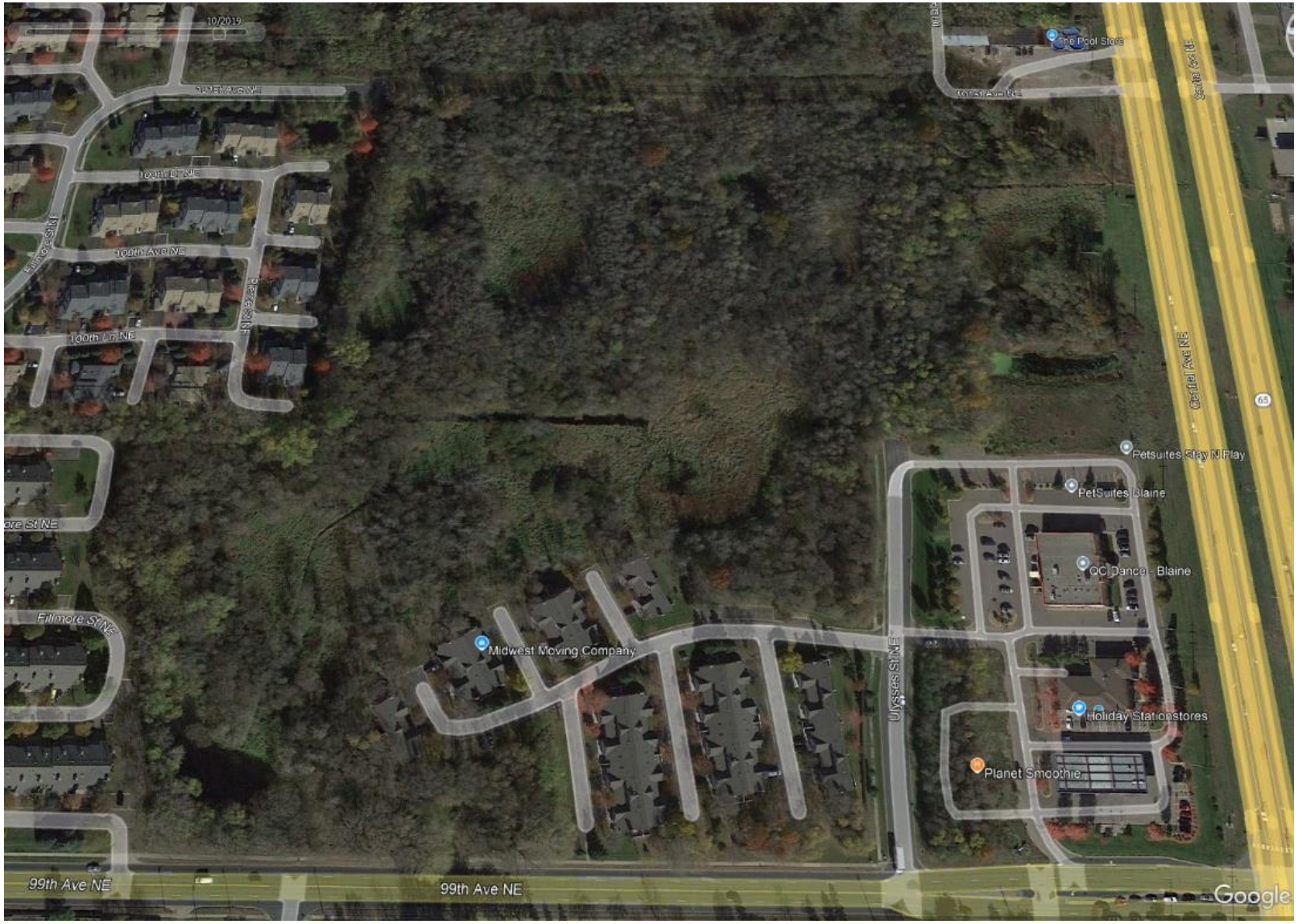

4/21/2020 Image Date



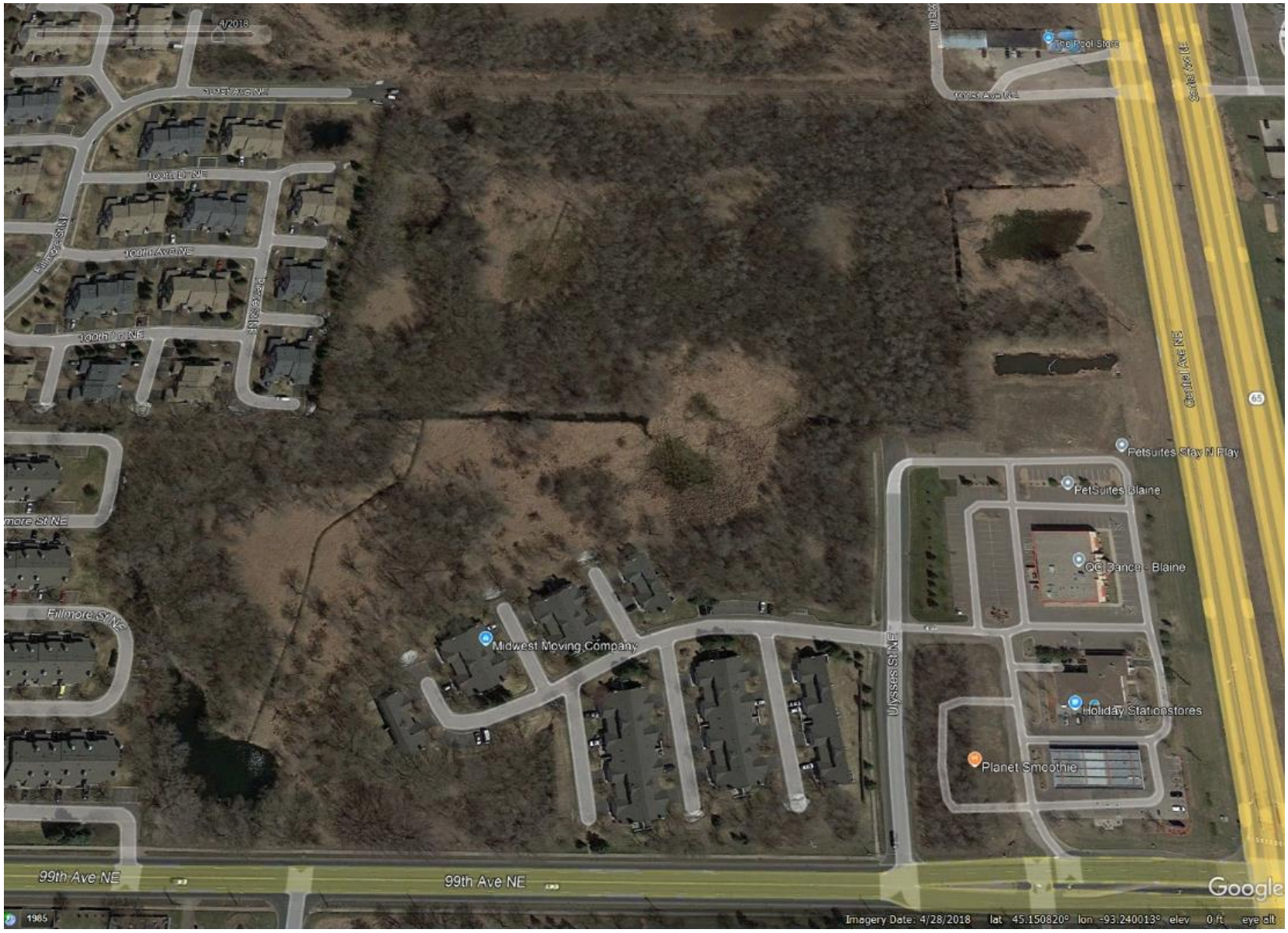

4/18/2020 Image Date



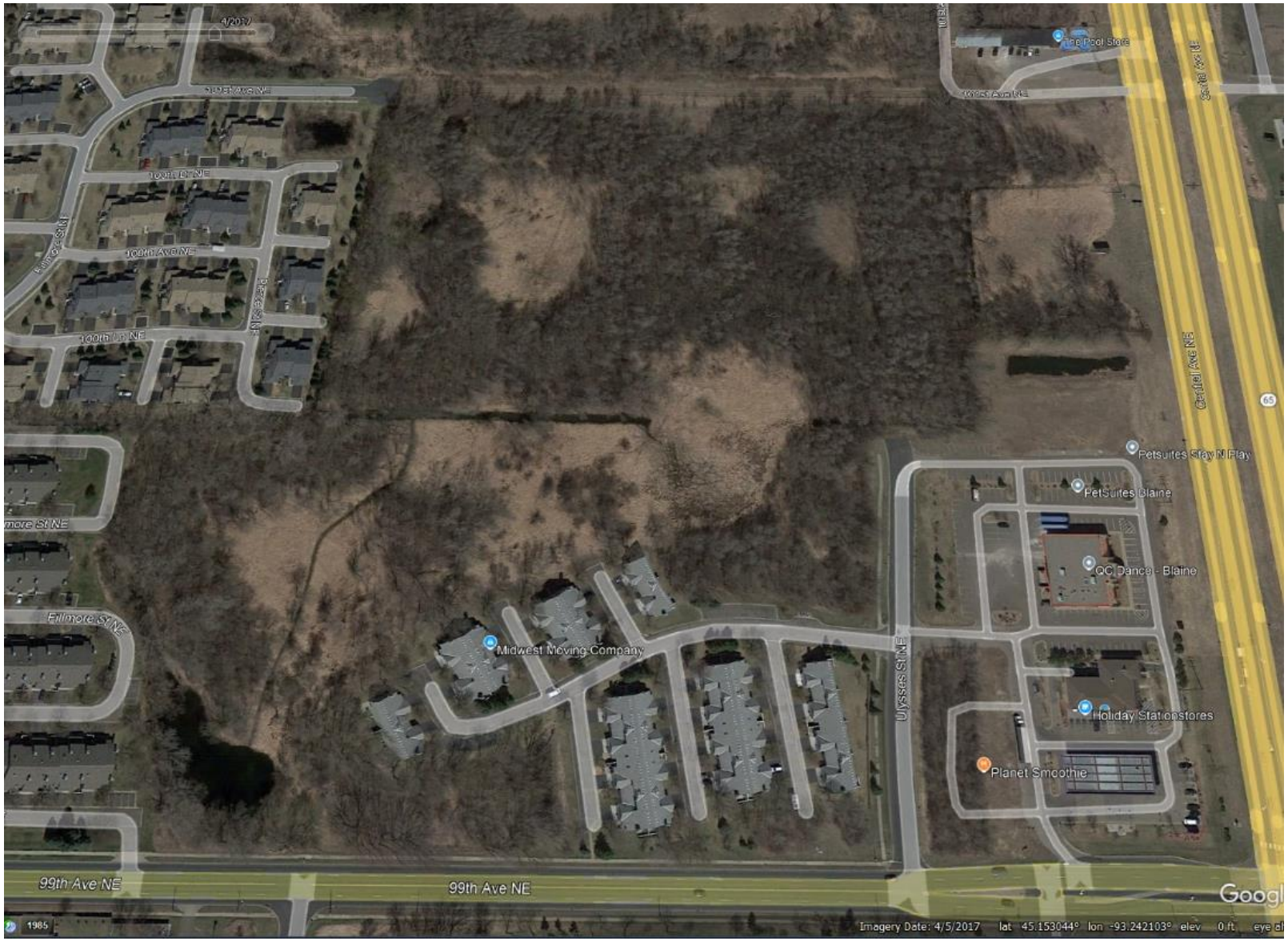

3/31/2020 Image Date




10/25/2019 Image Date




4/28/2018 Image Date




4/5/2017 Image Date

October 27, 2005

Ms. Maureen O'Neil
835 Jackson Grove Road
Columbus, NC 28722

**Re: Engineers Report – 65-Hi Property**

Dear Ms. O'Neil:

The purpose of the letter is to provide you HDR's assessment of your property relative to wetlands and drainage. The professional opinion contained in this correspondence is based upon the following factual data:

1) Review of the 1999 Wetland Delineation and subsequent hydrologic studies conducted by Peterson Environmental.
2) Review of file documents provided by yourself and Peterson Environmental including, but not limited to, flood insurance studies, grading plans, various topographic and ditch maps, aerial photos and various miscellaneous correspondence.
3) A site visit to observe and inspect the general drainage and wetland condition of the property.
4) A site visit to conduct a topographic survey of relevant drainage elements and to stake the limits of the 1999 wetland delineation.
5) A site review by a qualified wetland scientist to qualitatively determine if the wetlands on the property have increased, decreased, or remained consistent in size since completion of the 1999 delineation.

**BACKGROUND INFORMATION**

In 1999, a wetland delineation was completed by Peterson Environmental. The delineation noted six wetland areas on the subject property (wetlands C, E, D, B, F and A). Following completion of the report, a series of hydrologic studies were conducted to determine if sufficient hydrology existed to support the wetland environments. The hydrology studies were conducted during a period of above average precipitation for the project area. Given the precipitation totals, it could be anticipated that the hydrology study would record water levels higher than normal conditions. However, the studies documented very high surface and ground water elevations that extended for significant periods of time. The hydrology observed, as part of the study supports, the development and existence of wetlands on the project site. The extended duration of the high water events was a concern identified by the studies.

At your request, HDR conducted a site visit and field investigation to gain a first-hand understanding of the site's drainage. Prior to the site visit, a detailed review of readily available documents had found that the drainage of the site appeared limited. The property sits at the headwaters of the Judicial Ditch 17 (JD-17) watershed. A private ditch system conveys water from the site to the start of JD-17, which is a 18-inch culvert under 99th Avenue. Survey data on the culvert indicates elevation of the culvert at

approximately elevation 900+/-. However, interpretation of the Peterson Hydrology Study results indicate that water levels routinely were sustained at elevations of 901 or higher, and water was observed backing up and flowing northeast through a series of culverts that drain TH-65. The outlet of the TH-65 culvert system is 900.8. The HDR site visit and subsequent survey determined that the culvert at 99th Avenue was substantially plugged and/or blocked to an elevation of 901.6. In addition, the inlet and outlet of the 99th Avenue culvert had substantial debris and sediment accumulations, further exasperating the drainage situation on the property. The discovery of the culvert blockage at 99th Avenue explains both the high sustained water levels observed during the hydrology study and the observation of water back flowing through the TH-65 drainage system.

**ANALYSIS**

There are two primary concerns/impacts that could result from blockage of the 99th Avenue culvert on your property. These include blockage-induced expansion of wetland areas on the property, which would detract from developable acres, and temporary increases in the 100-year high water level for the property. As indicated, a HDR wetland professional visited the site and compared their observation of apparent wetland boundaries with those determined during the 1999 delineation. While a delineation was not conducted, it was apparent the high sustained water levels in the proceeding years had caused an expansion of wetland areas relative to those observed in 1999. Since the high water levels were primarily caused by the blockage of the 99th Avenue culvert, it is prudent to consider this impact when assessing current wetland areas on the property. Should another delineation be conducted that shows an increase in wetland area beyond those delineated in 1999, it is reasonable to conclude the increase is attributable to the blocked culvert at 99th Avenue. The second impact to your property that would result from continued blockage of the culvert is related to the regulated high water elevation. According to the records provided, the 100-year elevation for your property is elevation 903. This elevation is based upon hydrologic and hydraulic modeling conducted by Barr Engineering Company. The modeling assumed a functioning culvert at 99th Avenue, as well as existing land use conditions at the time of the study. Without a functioning culvert the actual flood elevation would be higher, which can cause damages to your property. Given the relatively flat nature of your property, it is important the drainage system be well-maintained to ensure optimal performance. Also, development in the watershed surrounding your property would increase runoff volumes, and if combined with a blocked outlet, could increase flood levels further.

**RECOMMENDATIONS FOR FUTURE ACTIONS**

During the course of HDR's work, the private drainage systems were cleaned of woody debris by labor crews retained by HDR. In addition, the City of Blaine was contacted and the entrance and outlet of the 99th Avenue culvert were cleaned by the City. A site investigation was conducted and photo evidence collected to document the cleaning. Given the nature of the property's drainage system, routine maintenance of both the public and private drainage system is necessary to maintain the site drainage.

Wetland delineations are considered valid for a total of 3-years. Therefore, the 1999 delineation is not considered valid. HDR does not recommend continuation of the wetland hydrology studies. Based upon our review of the site conditions it is apparent the wetland areas documented in 1999 on the property have remained the same or grown. Considering that delineations are time sensitive, it would be prudent to strategically conduct a wetland delineation approximately 6-months prior to prospective development or sale of the property. This will provide sufficient time to conduct the delineation, prepare a draft report,

convene the technical evaluation panel and issue the final wetland delineation. Wetland delineations are best conducted May through October of each year. April through November delineations are conducted also and are not normally viewed as favorable by the regulatory agencies. Should the property continue to remain undeveloped for the foreseeable future, HDR recommends that continued maintenance of both the public and private drainage systems be continued to ensure proper drainage of the property.

HDR appreciates the opportunity to be of service. Should you require additional information, please feel free to contact me at 763-591-5460.

Sincerely,
**HDR Engineering Inc.**

Robert J. Beduhn, P.E.
Vice President

**HDR Engineering, Inc.**

6190 Golden Hills Drive
Minneapolis, MN 55416-1518

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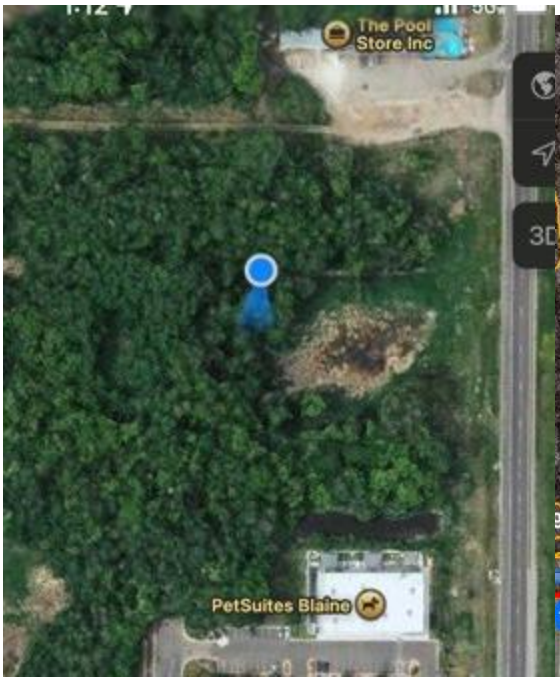
Fax: (763) 591-5413
www.hdrinc.com



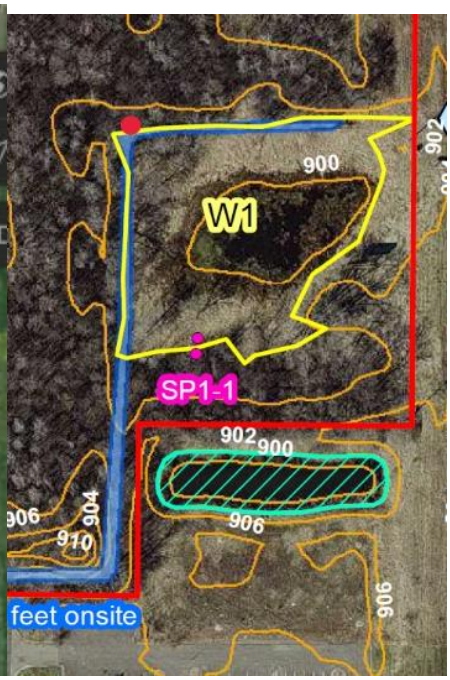




Photo of Tributary Ditch D1 bordering the west side of Wetland 1. This portion of the ditch is a wide (>6 feet), well-defined channel with sparse vegetation in the channel. Wetland 1 abuts the Ditch D1. There was no water in the Ditch D1 at the time of the site visit and the soil was not saturated.


Photo of Ditch D1bordering the west side of Wetland 1. This portion of the ditch is a wide (>6 feet), well-defined channel with sparse vegetation in the channel. Wetland 1 abuts the Ditch D1. There was no water in the ditch at the time of the site visit and the soil was not saturated.

Photo of Wetland 1. Wetland 1 is a reed canary dominated wetland.

Photo of Wetland 1. Wetland 1 is a reed canary dominated wetland.


Photo of the tributary Ditch D1 taken at a point northwest of the dog daycare. This portion of the ditch is not as wide as the portion abutting Wetland 1. The channel was approximately 2-3 feet wide, but still well-defined channel with sparse vegetation in the channel. There was no water in this portion of the Ditch D1 at the time of the site visit and the soil was not saturated.

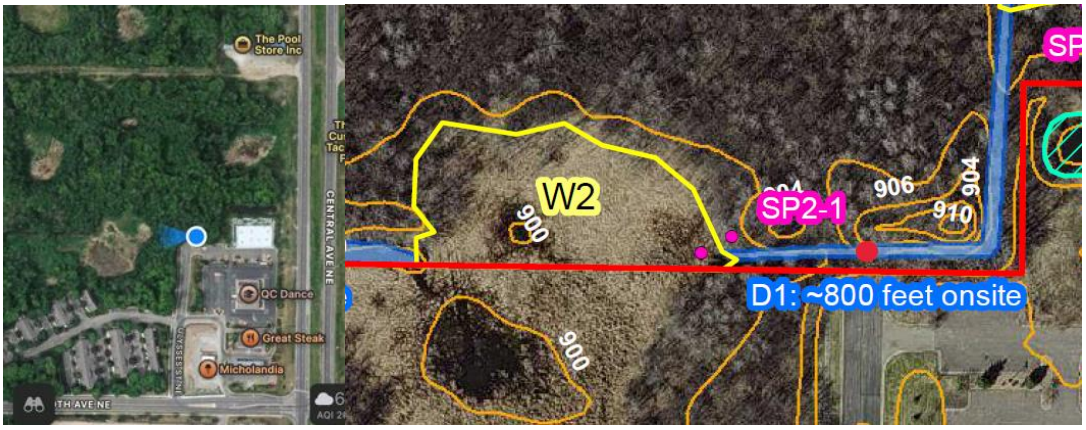
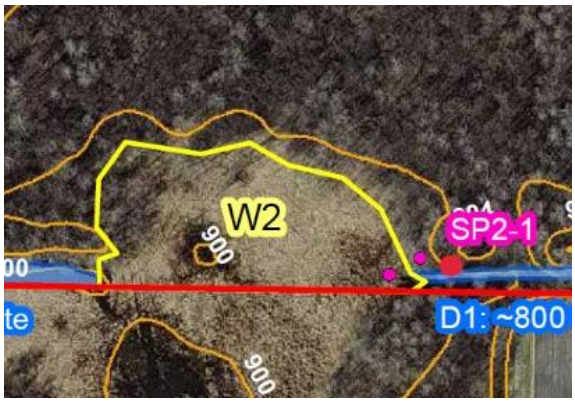



Photo of the tributary Ditch D1 taken facing west towards Wetland 2. This portion of the Ditch D1 is not as wide as the portion abutting Wetland 1. The channel was approximately 2-3 feet wide, but still well-defined channel with sparse vegetation in the channel. There was no water in this portion of Ditch D1 at the time of the site visit and the soil was not saturated.

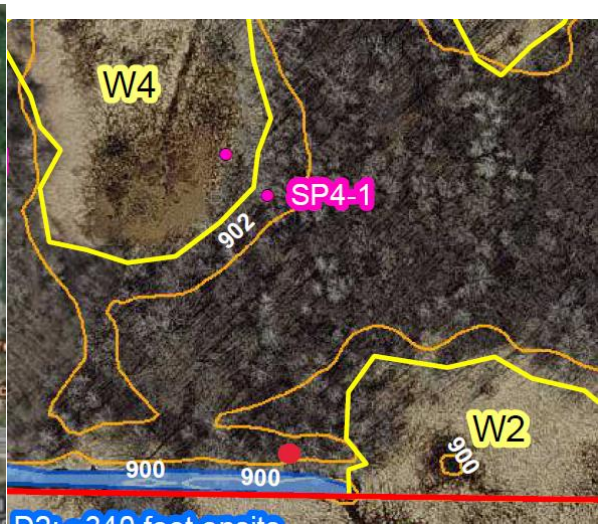



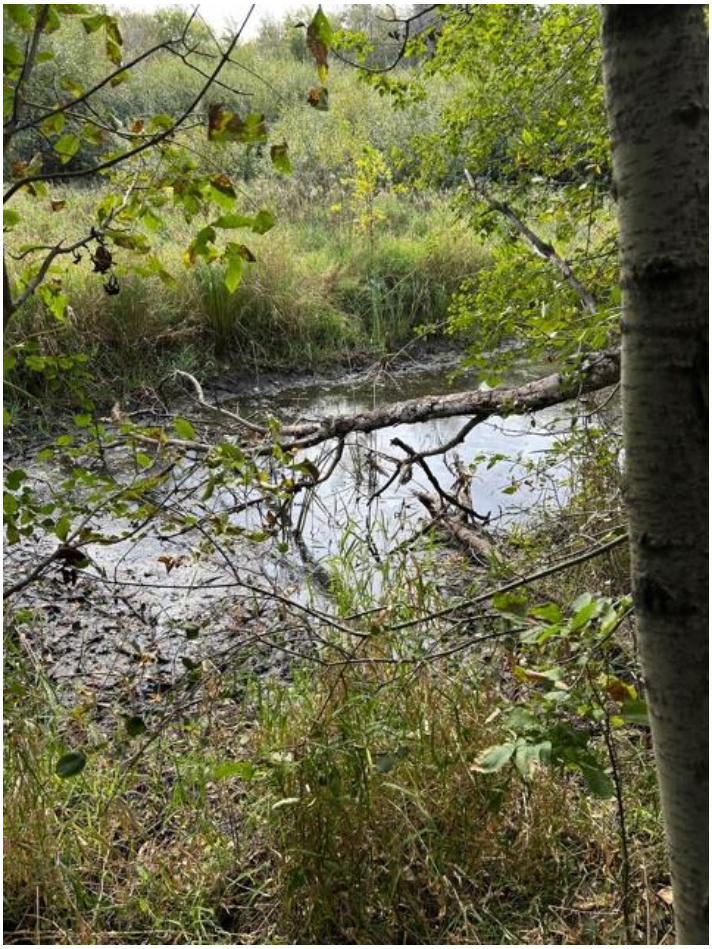

This photo above and below were taken at the location where tributary Ditch D1 enters Wetland 2. Wetland WL2 appears to have more hydrology than Wetland 1, and is dominated by cattail.

Photo was taken at the location where Wetland 2 and tributary Ditch D2 meet, facing west. Water was observed in Ditch D2 at the time of the site visit. There was a large spoil pile north of Ditch D2.

Photo (above) was taken at the location where Wetland 2 and Ditch D2 meet, facing west. Water was observed in Ditch D2 at the time of the site visit. There was a large spoil pile north of Ditch D2.

Photo was taken at the location where Wetland 2 and Ditch D2 meet, facing west. Water was observed in Ditch D2 at the time of the site visit. There was a large spoil pile north of Ditch D2.

Surface water observed at the time of the site visit in Ditch D2 with small amounts of flow moving downstream (west). Much of the surface water was ponded with water observed moving between the ponded areas. The berm north of Ditch D2 is 4-5 feet tall in some areas.


This is a picture of the berm that is located north of Ditch D2, facing east. The berm is 4-6 feet higher than the tributary.

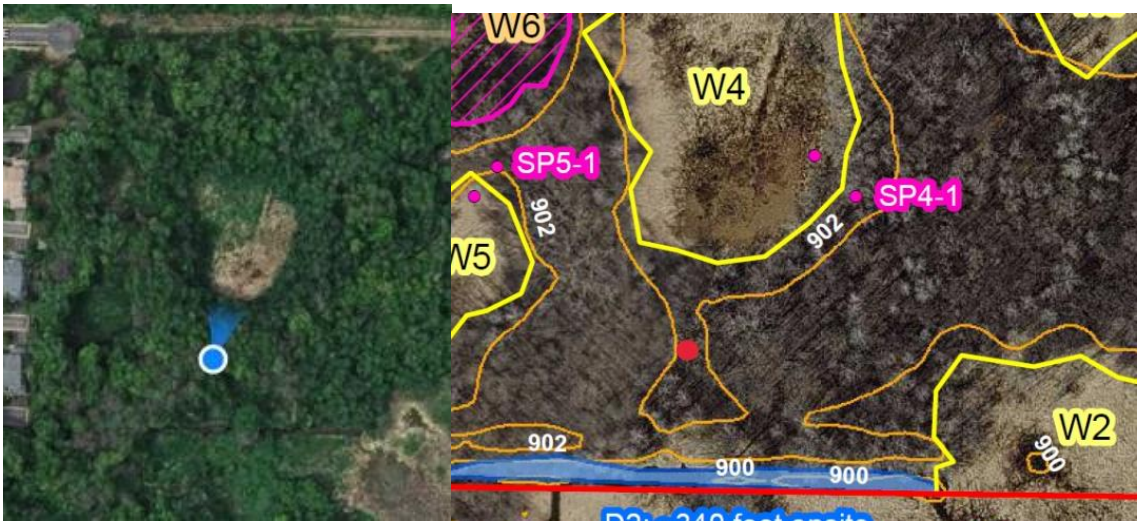
This is a picture of a “low spot” in the berm that could be the location where a remnant ditch from WL4 should enter Ditch D2. The low spot has been marked by my hat. As the picture clearly shows, there is no defined channel where the remnant ditch should be located. The remnant ditch is filled with dense vegetation. There is no evidence of flow or erosion. The remnant ditch is at an elevation above Ditch D2 and the area north of the berm.

This is a picture of a “low spot” in the berm that could be the location where a remnant ditch from WL4 should enter Ditch D2. The low spot has been marked by my hat. As the picture clearly shows, there is no defined channel where the remnant ditch should be located. The remnant ditch is filled with dense vegetation. There is no evidence of flow or erosion. The remnant ditch is at an elevation above Ditch D2 and the area north of the berm.

This photo was taken looking down on the remnant ditch and shows dense vegetation within the remnant ditch.

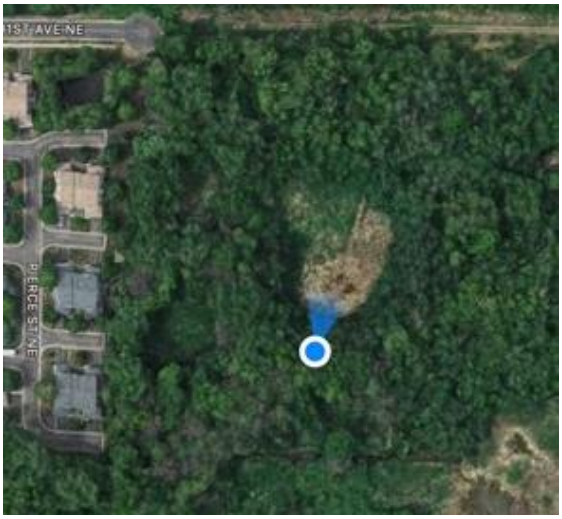
Photo of the remnant ditch looking north. The hat is located in the center of the remnant ditch.

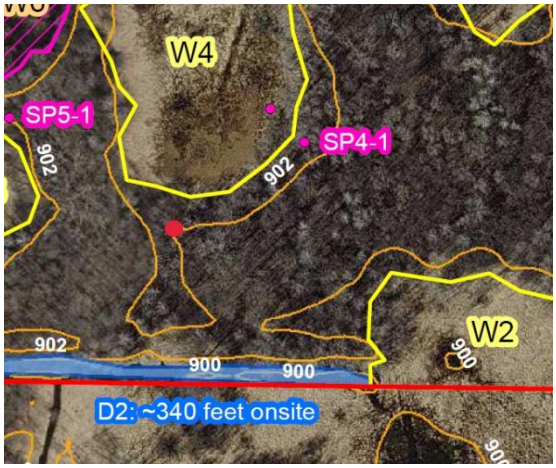
Photo of the remnant ditch looking north.

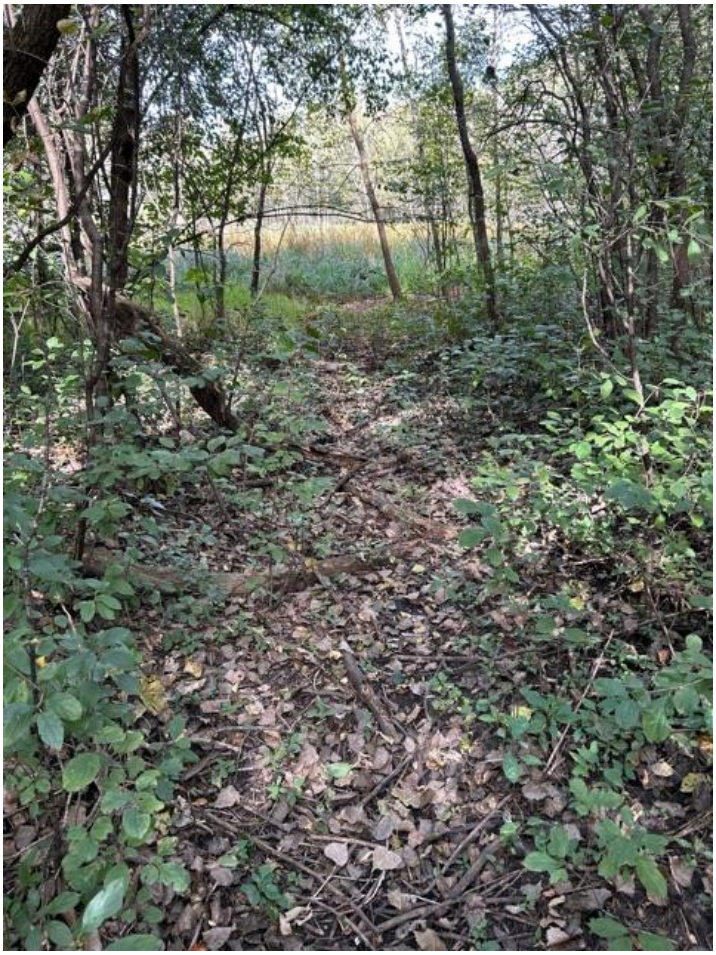



Pictures taken of remnant ditch, facing north, towards Wetland 4. The remnant ditch is filled with vegetation with no indicators of the flow. The channel is more of a swale like feature, no bed and bank observed. The remnant ditch seems to “flatten out” in some sections.

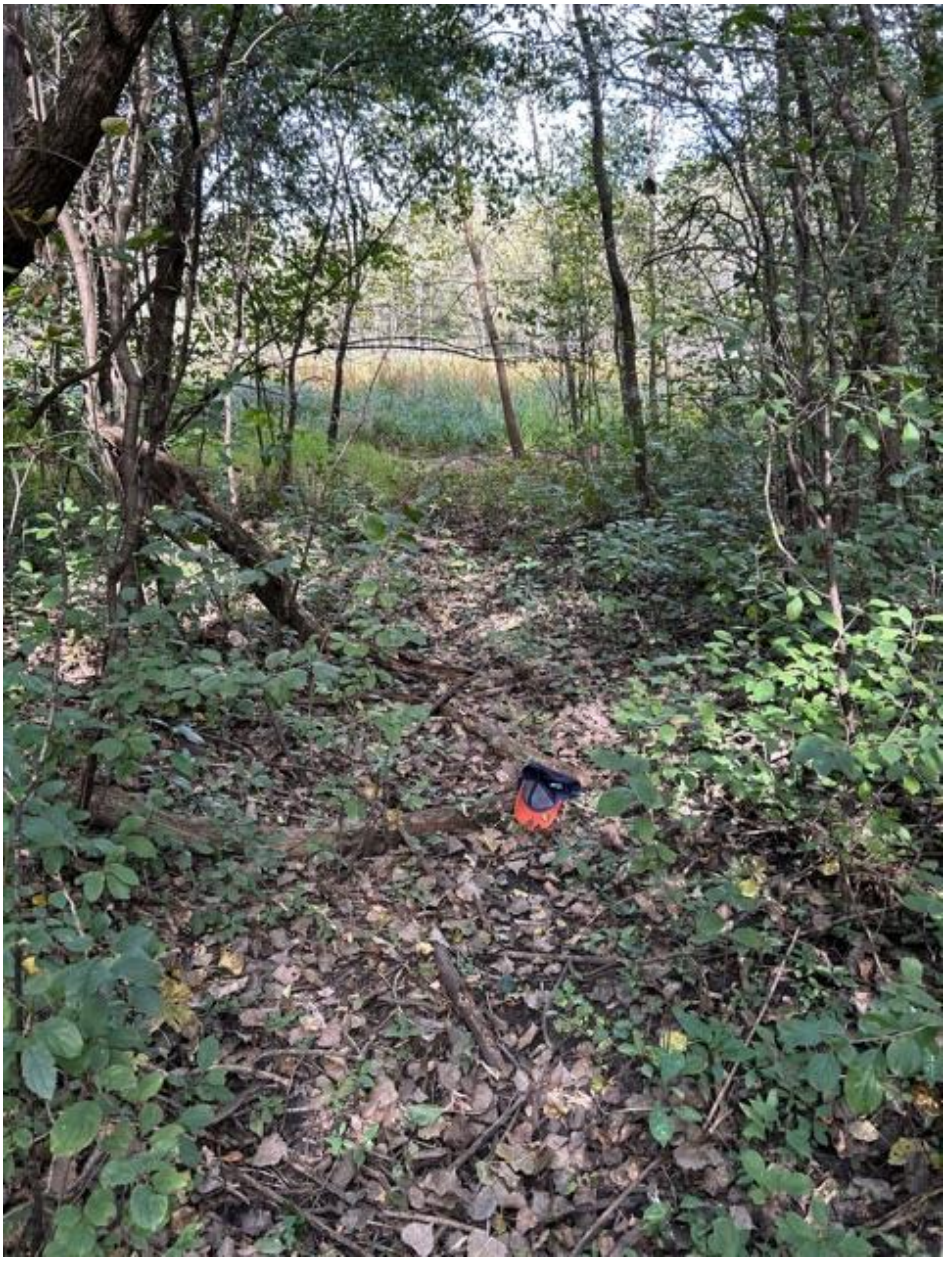
Photo taken of the remnant ditch walking towards Wetland 4, facing north. The remnant ditch is still filled with vegetation with no indicators of the flow. The channel is more of a swale like feature. No bed and bank observed. Seems to “flatten out” at portions of the channel. Hat marks approximate center location of the channel.



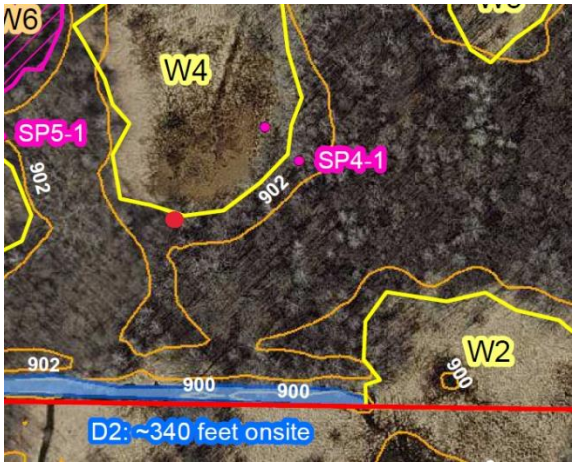



As we get closer to Wetland 4, we can see a more defined swale-like channel where the remnant ditch should be. This picture is taken from the middle of the remnant ditch looking north, towards Wetland 4.

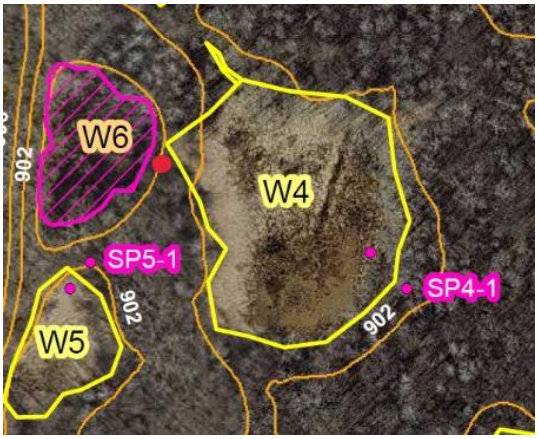


As we get closer to Wetland 4, we can see a more defined swale. This picture is taken from the middle of the remnant ditch looking north, towards Wetland 4. The hat is in the center of the remnant ditch. There was not a whole lot of evidence of flow, but there was evidence of ponding. Middle of channel sparsely vegetated.




Pictures take from the edge of Wetland 4, looking south. It appears that the remnant ditch leaving the wetland goes uphill. This indicates that water may be using the channel to enter Wetland 4, rather than exit the wetland via the remnant ditch and then enter Ditch D2.

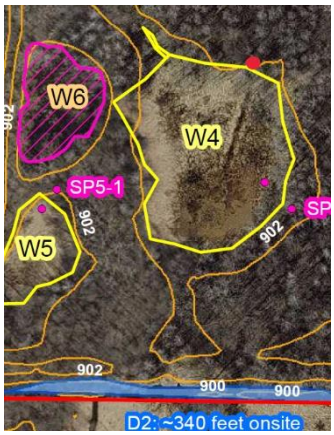
Moss on trees observed.




Picture taken of the area between Wetlands 4 and 6, there is no continuous surface connection between Wetlands 4 and 6.

Picture taken of the area between Wetlands 4 and 6, there is no continuous surface connection between Wetlands 4 and 6.

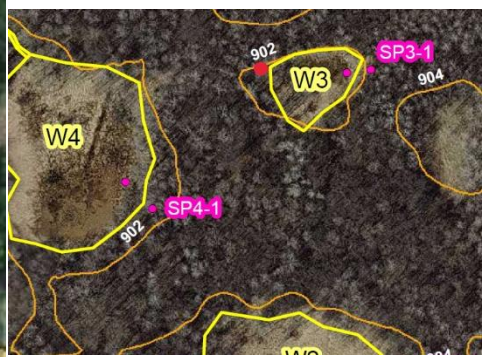
Picture taken of the area between Wetlands 4 and 6, there is no continuous surface connection between Wetlands 4 and 6




There was no continuous surface connection observed coming into Wetland 4 from the north.

There was no continuous surface connection observed coming into Wetland 4 from the north.

There was no continuous surface connection observed coming into Wetland 4 from the north.

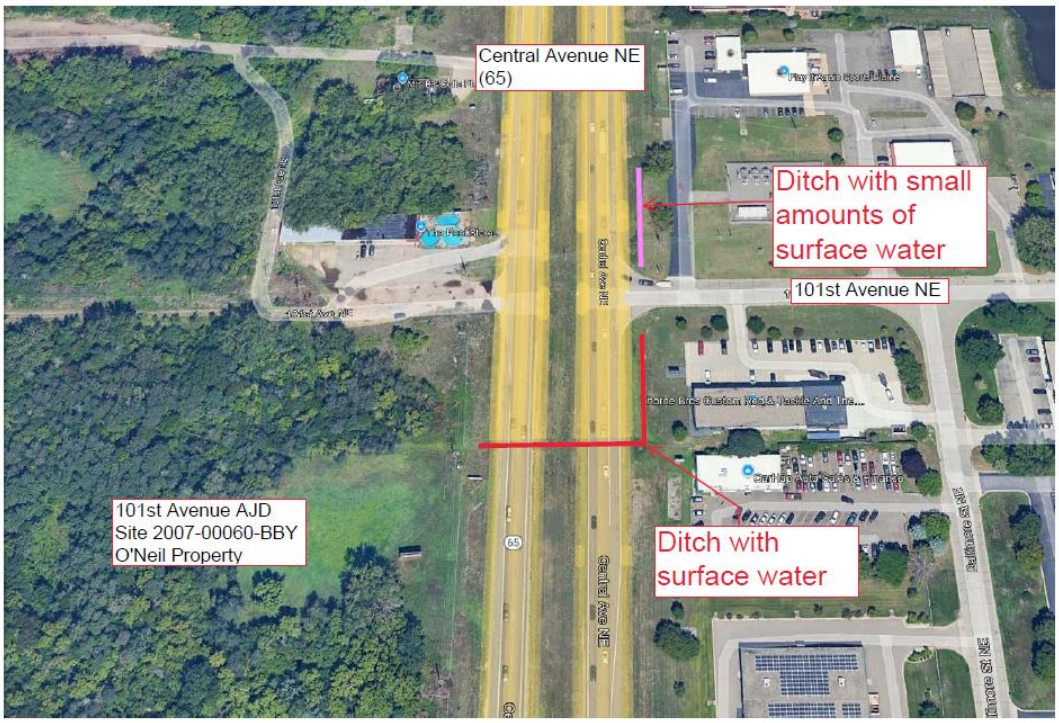



Picture of Wetland 3.

Wetland 3 surrounded by upland.

# O'Neil Property 101st Avenue AJD Site Visit (11/6/2024) – Private Ditch and County Ditch 17 (Springbrook Creek) Investigation

Summary of investigation along Central Avenue NE (65), east of the O'Neil property (2007-00060-BBY): Surface water was observed during the site visit from the roadside ditch west of Central Avenue NE (65), abutting the O'Neil Property (101st Avenue AJD 2007-00060-BBY), to the roadside ditch east of Central Avenue NE (65). The surface water accumulated and ponded in front of the Thorne Brothers Custom Rod and Tackle Shop, south of 101st Avenue. Only small amount of surface water was seen in the roadside ditch north of 101st Avenue NE. It appears that dense vegetation at the end of the ditch in front of the Thorne Brothers Custom Rod and Tackle Shop is limiting the flow of water under 101st Ave. There is also dense vegetation in ditch north of 101st Avenue NE. All surface water observed was stagnant with no indications of flow. No surface water was observed leaving the O'Neil property (AJD Site). There was dense vegetation between the ditches on the O'Neil property and the roadside ditch with no evidence of flow. Please see the pictures and descriptions on pages 2-19 (below) for additional information.



Pictures below taken from ditch southwest of Play It Again Sports. The photos are taken from the west said of the Central Ave NE (65) roadside ditch, facing east. These pictures show dense vegetation in front on a culvert.

The pictures below were taken north of 101st Avenue NE and show dense vegetation and some surface water ponding.


The pictures below were taken of the roadside ditch in front of the Thorne Brothers Custom Rod and Tackle Shop and show dense vegetation and the ends of the ditch and ponding throughout. The water was ponded, not flowing in any direction at the time of the site visit.



2:58
Search here
Home
Restaurants
Shopping
48°
47 AQI
101st Ave NE
Explore
You
Contribute


THORNE
BROS
the FLY
ANGLER
FORD


AUTO REPAIR
763-780-7979

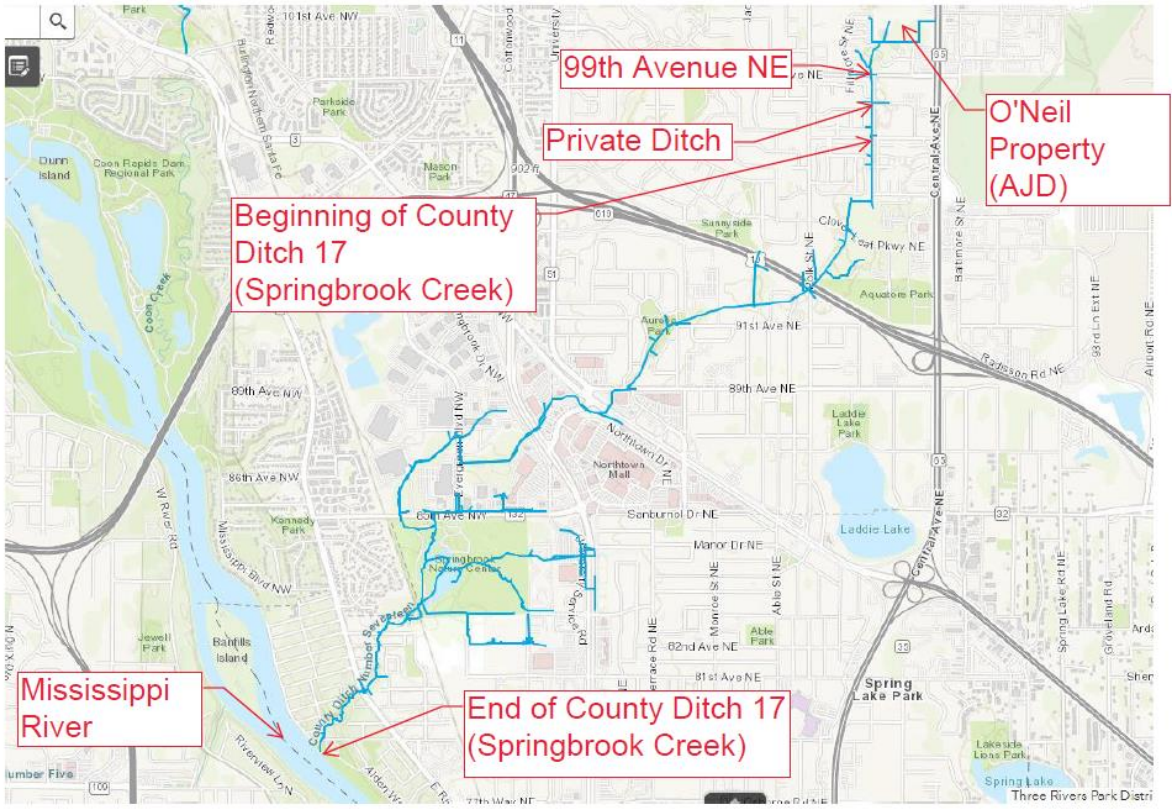

FISHING TACKLE
THORNE
BROS
the FLY ANGLER

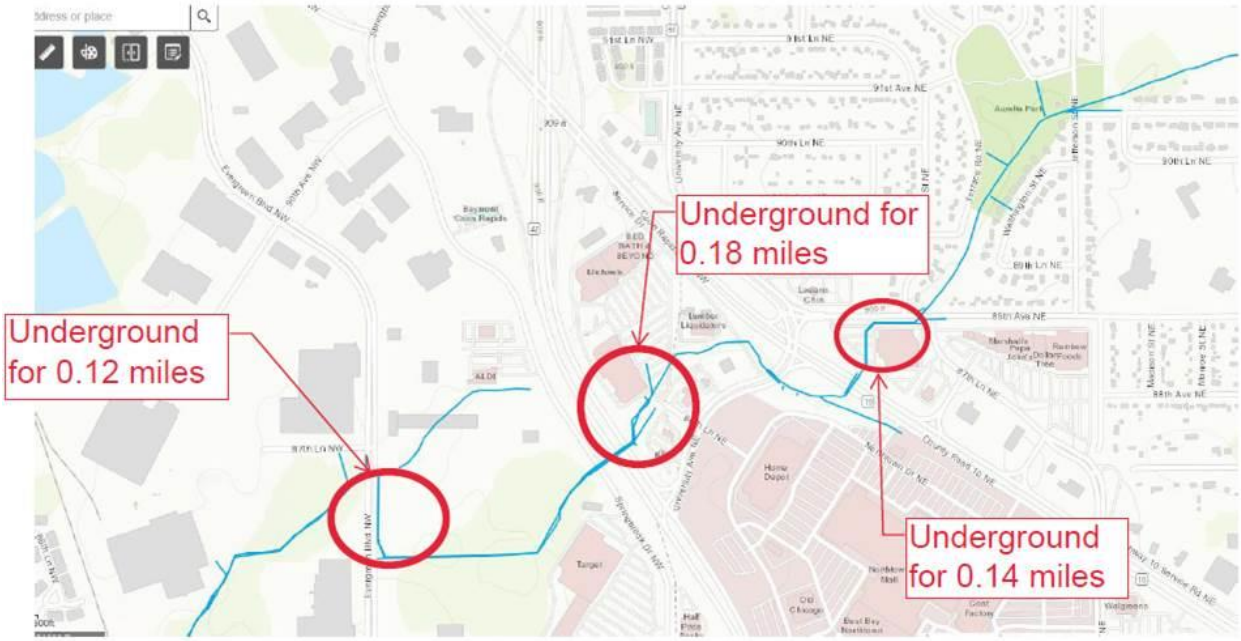
The pictures below were taken of the ditch between the north bound and south bound roadways of Central Avenue NE. Ponded water was observed in this ditch.


The pictures below were taken of the roadside ditch west of Central Avenue NE. Surface water was present during the site visit, but was not coming from the O'Neil property. The water in the ditch was not moving at the time of the site visit. The ditch coming from the O'Neill property was filled with dense vegetation and no indicators of flow.

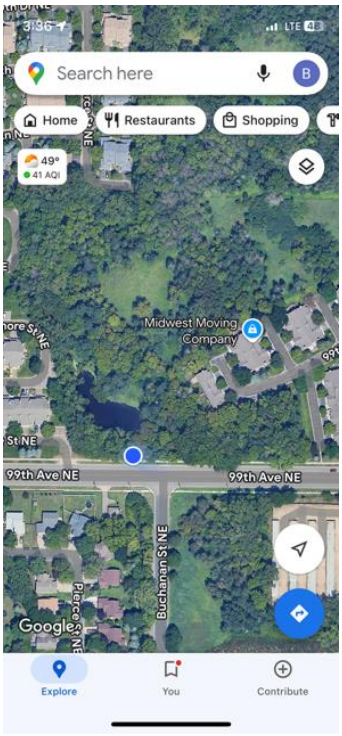

Summary of investigation from 99th Avenue NE to Ironton Street NE:

Aerial imagery indicates that certain times of the year, surface water from the O'Neil property extends to a pond north of 99th Avenue NE. During the site visit, no water was observed leaving the pond via a culvert under 99th Avenue NE. The culvert is connected to the pond via an approximately 20-foot-long swale which was dry during the site visit. The swale was observed to be sparsely vegetated and had indicators of flow including including a lack of vegetation in the swale and a small channel had formed at the location where the pond discharges into the swale. I looked in the culvert and noticed no additional obstructions. The culvert extends south of 99th Avenue NE, west of Buchanan Street, where is flows into a private ditch that connects to County Ditch 17 (Springbrook Creek) at 97th Avenue NE. 97th Avenue NE is the legal boundary of County Ditch 17. Surface water was observed in private ditch and Country Ditch 17 (Springbrook Creek) from 99 Avenue NE to Ironton Street NE during the time of the site visit and aerial imagery indicates that the private and County Ditch 17 (Springbrook Creek) have perennial flow. The site visit confirmed that the private ditch south of 99th Avenue NE is a relatively permanent water (RPW) and that the private ditch flows into County Ditch 17 (Springbrook Creek) which is also an RPW. The flowpath of County Ditch 17 (Springbrook Creek) is seen in the figures below. This flow path was confirmed during the site visit. There are multiple locations where County Ditch 17 (Springbrook Creek) flows subsurface, and the subsurface inlets and outlets were observed in the field at the location indicated in the figures below. Please see the pictures and descriptions on pages 20-44 (below) for additional information.

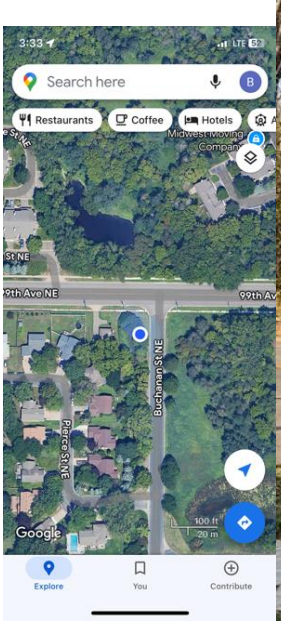



Underground for 0.18 miles
Underground for 0.12 miles
Underground for 0.14 miles

These pictures were taken North of 99th Ave NE and show no water in the culvert. There is a swale, continuous surface connection, from the pond to the culvert which extends to the private ditch south of 99th Avenue NE. The culvert was unobstructed, except for a tree branch and leaf litter. The site visit took place in the fall and accounts for the leaf litter. I looked in the culvert and noticed no additional obstructions. Leaf litter and bare ground observed in the swale with limited amounts of vegetation.

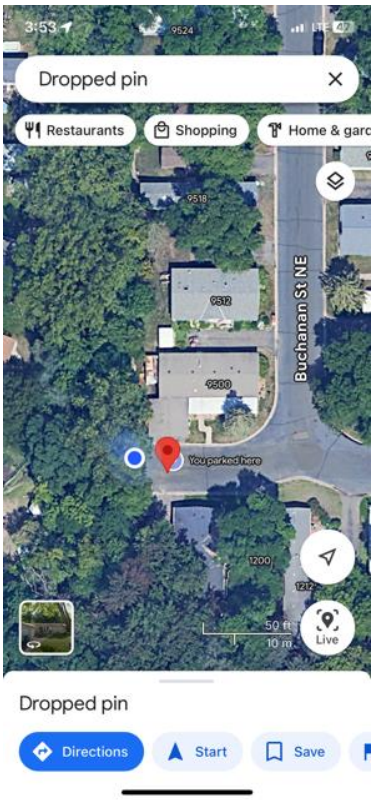



Surface water was observed in the private ditch near 99th and Buchanan. The culvert going under 99th appears to be unobstructed. The water in the private ditch appears to be stagnant as noticed by leaf and other debris not moving on the surface of the water.




The ditch had surface water at 98th Avenue NE and Buchanan.

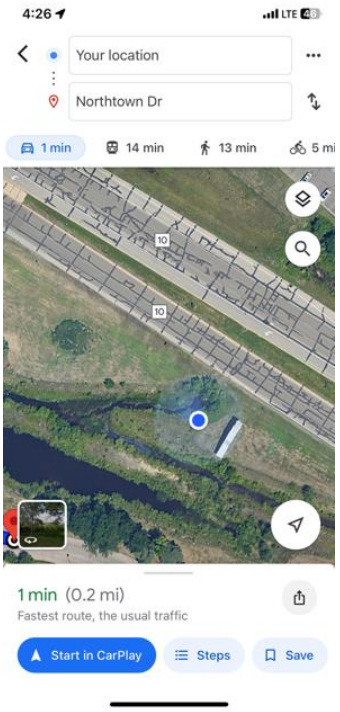

County Ditch 17 had surface water at 95th Avenue NE and Buchanan.



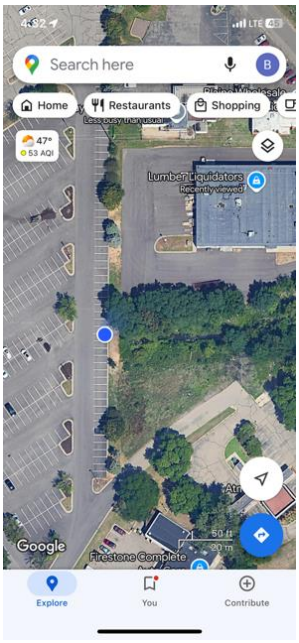

County Ditch 17 at Tyler Street NE had surface water.


County Ditch 17, northeast of the Salvation Army, enters a culvert that flows subsurface, under the Salvation Army and Highway 10. The ditch had flowing water at the time of the site visit and the culvert was unobstructed.

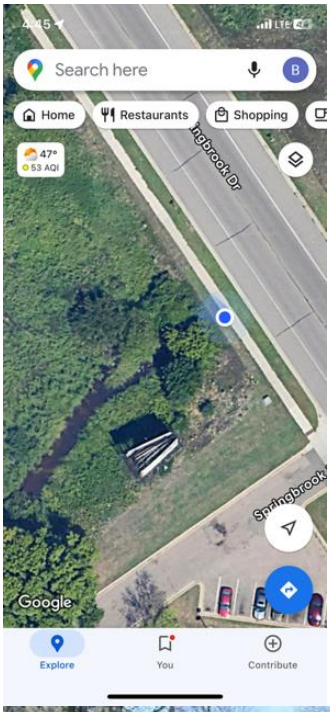

County Ditch 17 outlets near the Northtown Mall sign, west of Highway 10. Flow was observed during the site visit in an unobstructed channel.



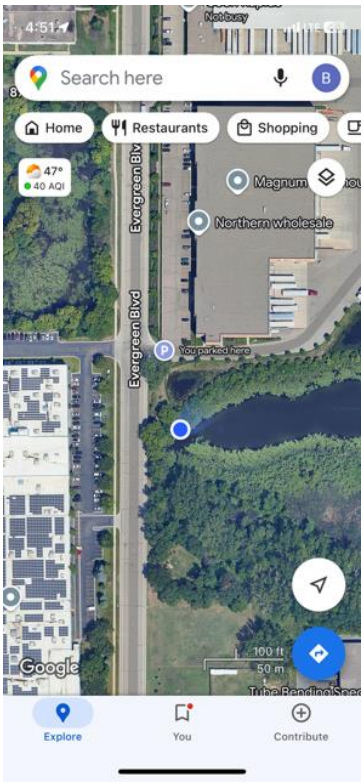

Pictures taken south of Lumber Liquidators. County Ditch 17 flows into the culvert and under the parking lot to the west.



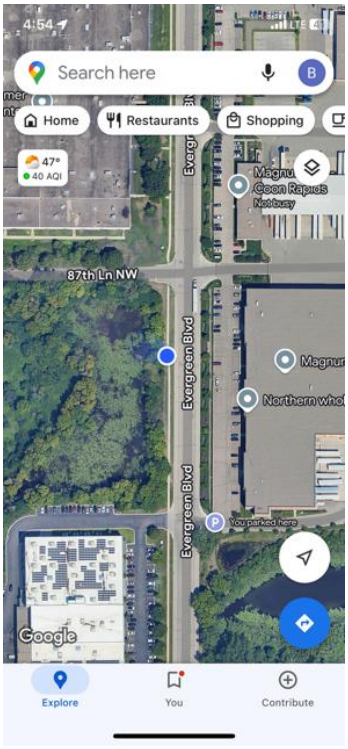

County Ditch 17 daylights north of Tires Plus parking lot. Flowing water was observed coming out of two culverts, converging to form one channel.



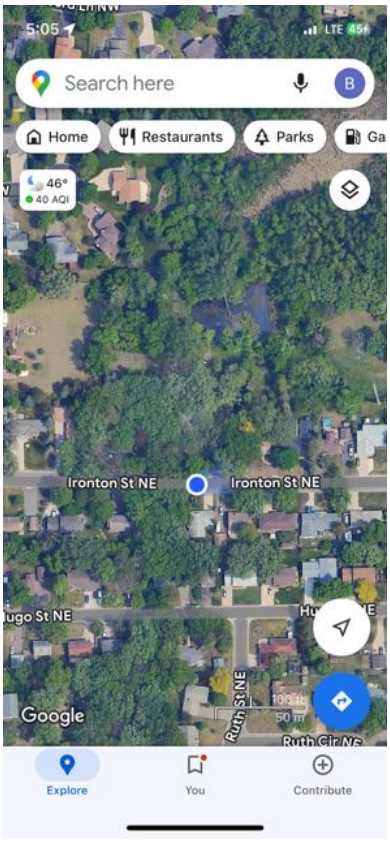

The pictures below were taken of the water control structure south of Northern Wholesale parking lot. I did not observe water flowing, but you could hear it going through the control structure at the time of the site visit. The water flows subsurface from this structure north, to a pond on the west side of Evergreen Boulevard.

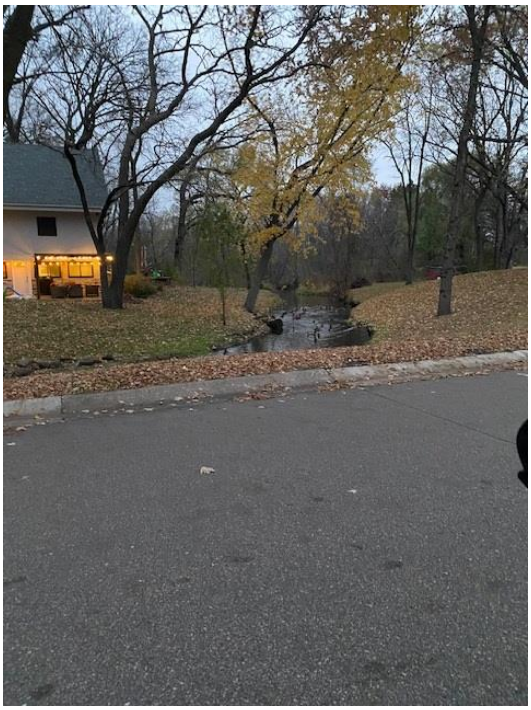



County Ditch 17 daylights into the pond west of Evergreen Boulevard through a large car culvert coming in from underneath the road. Water flow was observed at the surface during the time of the site visit.




Pictures of County Ditch 17 at Ironton Street NE. Surface water flow was observed during the time of the site visit.



# O'Neil Property 101st Avenue AJD Site Visit (5/21/2025) – Private Ditch Investigation

Summary of investigation along Central Avenue NE (65), east of the O'Neil property (2007-00060-BBY):
The site visit started around 0545 on Wednesday May 21, 2025. The City of Blaine, Minnesota had received approximately 4.2 inches of rain from May 19 to 0600 on May 21. I observed surface water during the site visit from the roadside ditch west of Central Avenue NE (65), abutting the O'Neil Property (101st Avenue AJD 2007-00060-BBY), to the roadside ditch east of Central Avenue NE (65). It appeared that the water was very slowly flowing toward the O'Neil property from the roadside ditch as evident in video taken that day, facing north. The video shows small plant debris heading west, towards the O'Neil property. That said, the video is not definitive. The area is very flat and lacks a defined channel as seen in the pictures below.

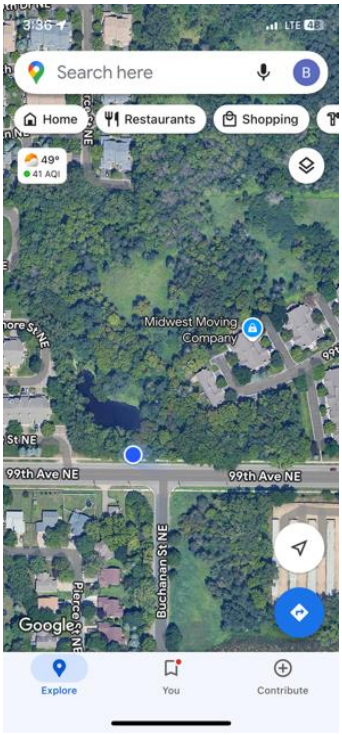


The picture above was taken in the same approximate location as photos taken during the 11/6/2024 site visit, facing east.

The picture above was taken in the same approximate location as photos taken during the 11/6/2024 site visit, facing west.

Summary of investigation of culvert north of 99th Ave NE:

These pictures were taken North of 99th Ave NE, at approximately the same location pictures were taken at during the 11/6/2024 site visit marked with the blue dot below, and show no water flowing through the culvert even though the City of Blaine had received approximately 4.2 inches of rain in the previous 36 hours. There is still no surface water connection between detention pond and the culvert. Surface water in the swale was still approximately 4 feet away from the culvert. The culvert was largely unobstructed, except for a few tree branches and leaf litter.



Picture taken from the culvert facing north. It is apparent that water is not flowing into the culvert.

Picture taken from the culvert facing north. It is apparent that water is not flowing into the culvert.

Picture taken of the culvert facing north. The culvert is unobstructed.

Picture taken of the swale extending from the pond towards the culvert, facing north.

Picture taken from the culvert facing north. It is apparent that water is not flowing into the culvert.

Picture of the culvert, facing south.

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL**

| Applicant: Maureen O'Neil | File Number: MVP-2007-00060-BBY | Date: June 3, 2025 |
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| Attached is: | | See Section below |
|---|---|---|
| ☐ | INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission) | A |
| ☐ | PROFFERED PERMIT (Standard Permit or Letter of permission) | B |
| ☐ | PERMIT DENIAL WITHOUT PREJUDICE | C |
| ☐ | PERMIT DENIAL WITH PREJUDICE | D |
| ☒ | APPROVED JURISDICTIONAL DETERMINATION | E |
| ☐ | PRELIMINARY JURISDICTIONAL DETERMINATION | F |

**SECTION I**

The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/appeals/ or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C. PERMIT DENIAL WITHOUT PREJUDICE: Not appealable
You received a permit denial without prejudice because a required Federal, state, and/or local authorization and/or certification has been denied for activities which also require a Department of the Army permit before final action has been taken on the Army permit application. The permit denial without prejudice is not appealable. There is no prejudice to the right of the applicant to reinstate processing of the Army permit application if subsequent approval is received from the appropriate Federal, state, and/or local agency on a previously denied authorization and/or certification.

D: PERMIT DENIAL WITH PREJUDICE: You may appeal the permit denial
You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information for reconsideration

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety and waive all rights to appeal the approved JD.

- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

- RECONSIDERATION: You may request that the district engineer reconsider the approved JD by submitting new information or data to the district engineer within 60 days of the date of this notice. The district will determine whether the information submitted qualifies as new information or data that justifies reconsideration of the approved JD. A reconsideration request does not initiate the appeal process. You may submit a request for appeal to the division engineer to preserve your appeal rights while the district is determining whether the submitted information qualifies for a reconsideration.

F: PRELIMINARY JURISDICTIONAL DETERMINATION: Not appealable
You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

| If you have questions regarding this decision you may contact: | If you have questions regarding the appeal process, or to submit your request for appeal, you may contact: |
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| U.S. Army Corps of Engineers<br>St. Paul District<br>Regulatory Division<br>332 Minnesota Street, Suite E1500<br>St. Paul, MN 55101-1323<br><br>Phone: 651-290-5525 | Brian Oberlies<br>Administrative Appeals Review Officer<br>Mississippi Valley Division<br>P.O. Box 80 (1400 Walnut Street)<br>Vicksburg, MS 39181-0080<br>Phone: 601-634-5820<br>Email: brian.m.oberlies@usace.army.mil |

**SECTION II – REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. Use additional pages as necessary. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation and will have the opportunity to participate in all site investigations.

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| _____<br>Signature of appellant or agent. | Date: |
| Email address of appellant and/or agent: | Telephone number: |