



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

MVP-RD

[18 July 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) ,<sup>1</sup> [[MVP-2009-01812-TMS MFR 1 of 1](#)]

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.<sup>2</sup> AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.<sup>3</sup>

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army (“the agencies”) published the “Revised Definition of ‘Waters of the United States,’” 88 FR 3004 (January 18, 2023) (“2023 Rule”). On September 8, 2023, the agencies published the “Revised Definition of ‘Waters of the United States’; Conforming”, which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) (“*Sackett*”).

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),<sup>4</sup> the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

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<sup>1</sup> While the Revised Definition of “Waters of the United States”; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

<sup>2</sup> 33 CFR 331.2.

<sup>3</sup> Regulatory Guidance Letter 05-02.

<sup>4</sup> USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

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SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [MVP-2009-01812-TMS]

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 P (1.02 acre), non-jurisdictional]

ii. [Wetland U (2.04 acres), 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. 651, 143 S. Ct. 1322 (2023)

d. Memorandum To the Field Between The U.S. Department Of The Army, U.S. Army Corps Of Engineers And The U.S. Environmental Protection Agency Concerning The Proper Implementation Of 'Continuous Surface Connection' Under The Definition Of "Waters Of The United States" Under The Clean Water Act" (March 12, 2025)

3. REVIEW AREA. [The review area is approximately 3.06 acres in size and is located at Lat. 44.997926, Long -92.966102 in Oakdale, Washington County, Minnesota. The review area is surrounded by residential and commercial developments, 34<sup>th</sup> Street North, and Interstate 694]

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. [N/A]<sup>5</sup>

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

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<sup>5</sup> This MFR should not be used to complete a new stand-alone TNW determination. A stand-alone TNW determination for a water that is not subject to Section 9 or 10 of the Rivers and Harbors Act of 1899 (RHA) is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established.

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6. SECTION 10 JURISDICTIONAL WATERS<sup>6</sup>: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.<sup>7</sup> [N/A]
7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
  - a. Traditional Navigable Waters (TNWs) (a)(1)(i): [N/A]
  - b. The Territorial Seas (a)(1)(ii): [N/A]
  - c. Interstate Waters (a)(1)(iii): [N/A]
  - d. Impoundments (a)(2): [N/A]
  - e. Tributaries (a)(3): [N/A]
  - f. Adjacent Wetlands (a)(4): [N/A]
  - g. Additional Waters (a)(5): [N/A]

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<sup>6</sup> 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

<sup>7</sup> This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

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## 8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. 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).

[Wetlands P and U are not Traditionally Navigable Water, territorial seas, or interstate waters and are therefore not (a)(1) waters. The wetland delineation report, application, aerial imagery, topographical maps, and digital elevation modeling indicate that Wetlands P and U do not physically abut a relatively permanent (a)(2) impoundment or a jurisdictional (a)(3) tributary and are not separated by a natural berm, bank, dune, or similar landform. Wetland P is primarily contained within a roadside ditch and is surrounded by a residential development to the north, 34<sup>th</sup> Street North to the south, Hadley Avenue North to the east, and Granada Avenue to the west, and drains via culvert under Hadley Avenue North to the east into another roadside ditch. The roadside ditches would not be considered relatively permanent waters. Wetland U is surrounded by a commercial development to the west, 34<sup>th</sup> Street North to the north, Interstate 694 to the east, and a gravel access road to the south. Wetland U is located in a low area that is precipitation fed by precipitation from surrounding uplands. Wetlands P and U do not appear to have continuous surface connections to relatively permanent jurisdictional waters. Wetland P drains via culvert into Wetland T when it is inundated and water reaches a certain elevation, but the culvert would not constitute a continuous surface connection to a relatively permanent jurisdictional water. Wetlands P and U are non-tidal wetlands that do not have continuous surface connections to relatively permanent jurisdictional waters and as such do not meet the definition of adjacent and cannot be evaluated as (a)(4) wetlands. Therefore, Wetland 1 is not a jurisdictional water 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. [Application. Barr Engineering]
- b. [Wetland Delineation Report, Barr Engineering, April 2025]
- c. [National Regulatory Viewer, 2023 data sources]

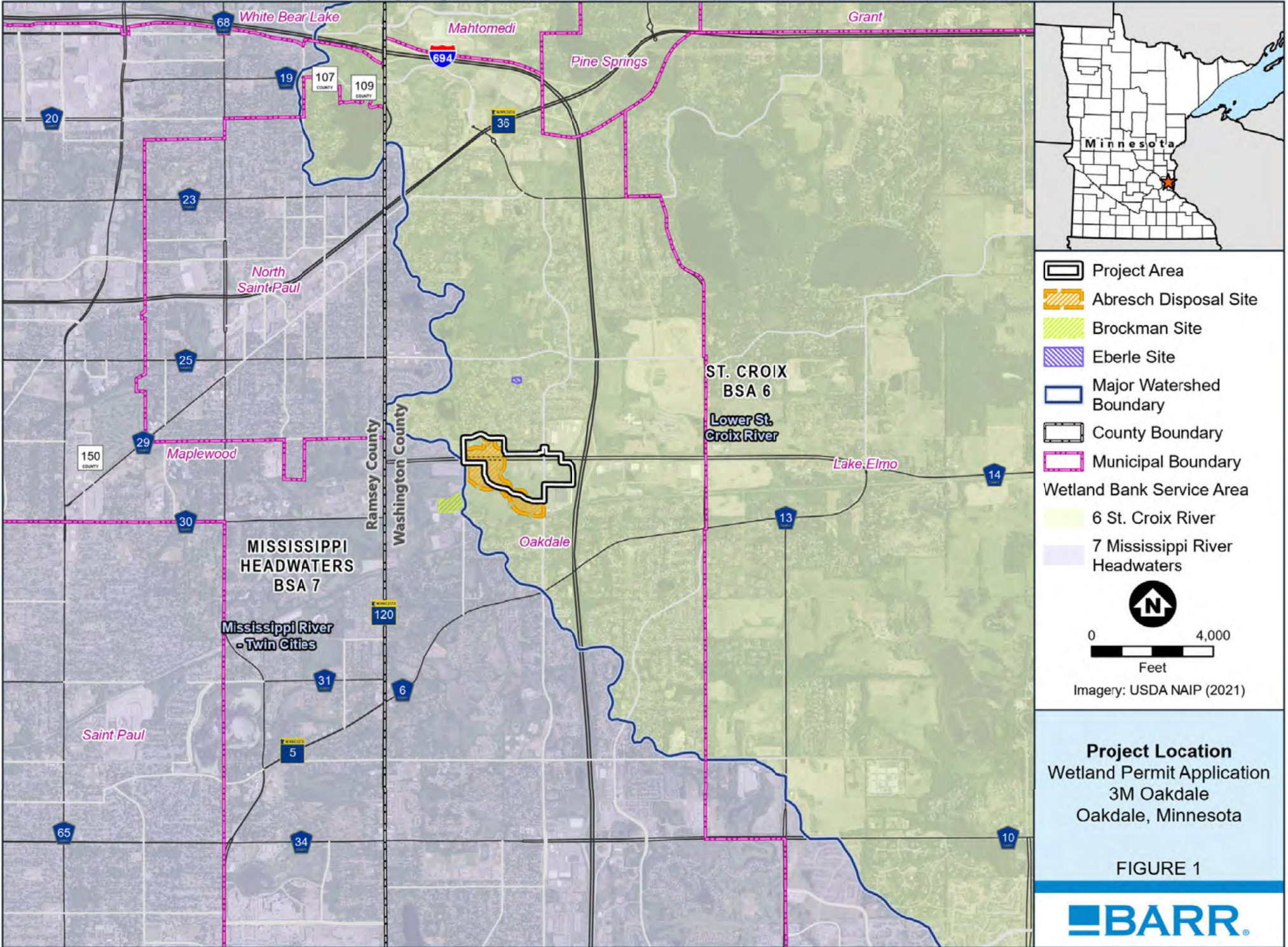
MVP

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [[MVP-2009-01812-TMS](#)]

d. [[Desktop Evaluation, July 10, 2025](#)]

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.



**Legend**

- Project Area
- Abresch Disposal Site
- Brockman Site
- Eberle Site
- Major Watershed Boundary
- County Boundary
- Municipal Boundary

**Wetland Bank Service Area**

- 6 St. Croix River
- 7 Mississippi River Headwaters

North

0 4,000  
Feet

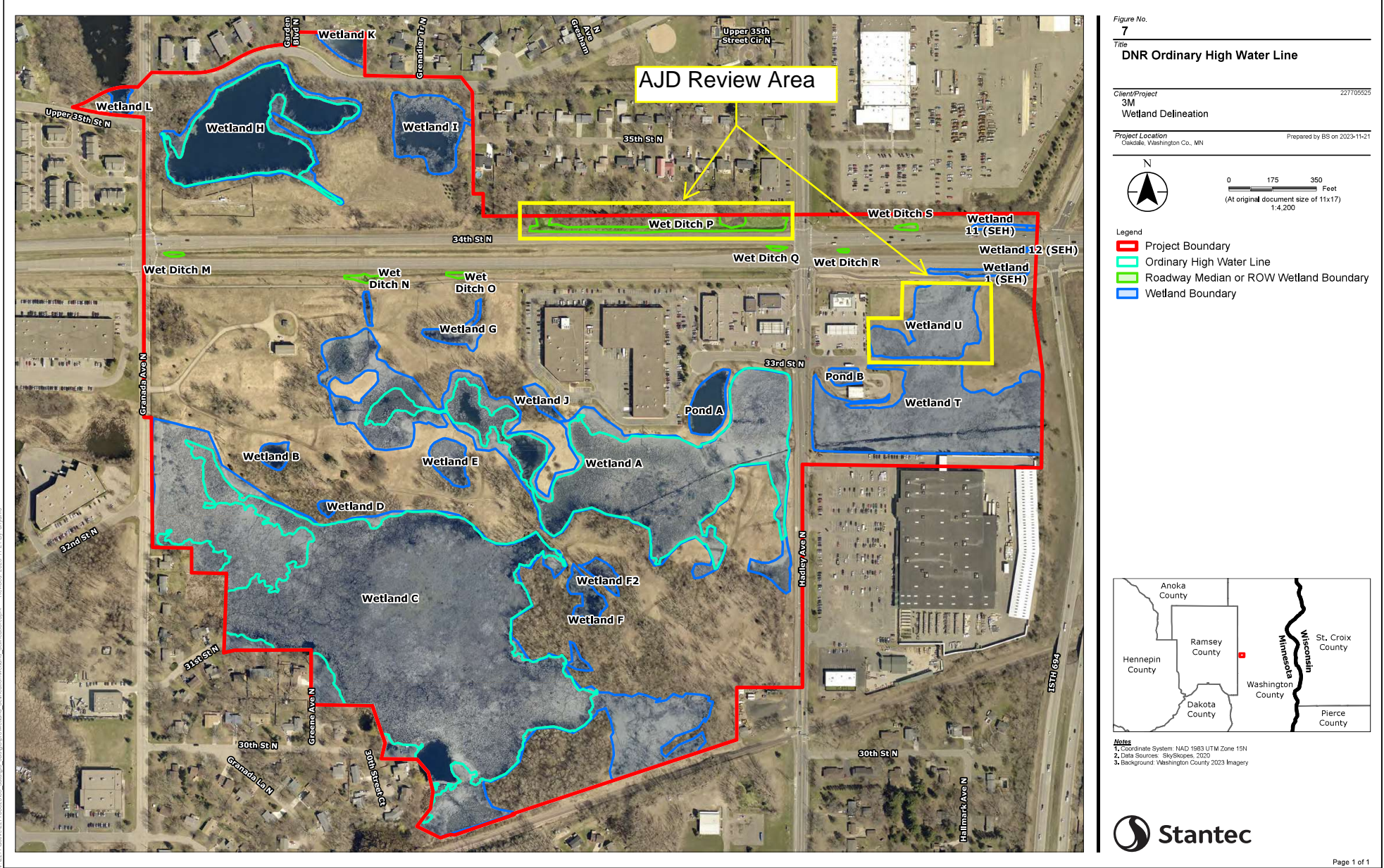
Imagery: USDA NAIP (2021)

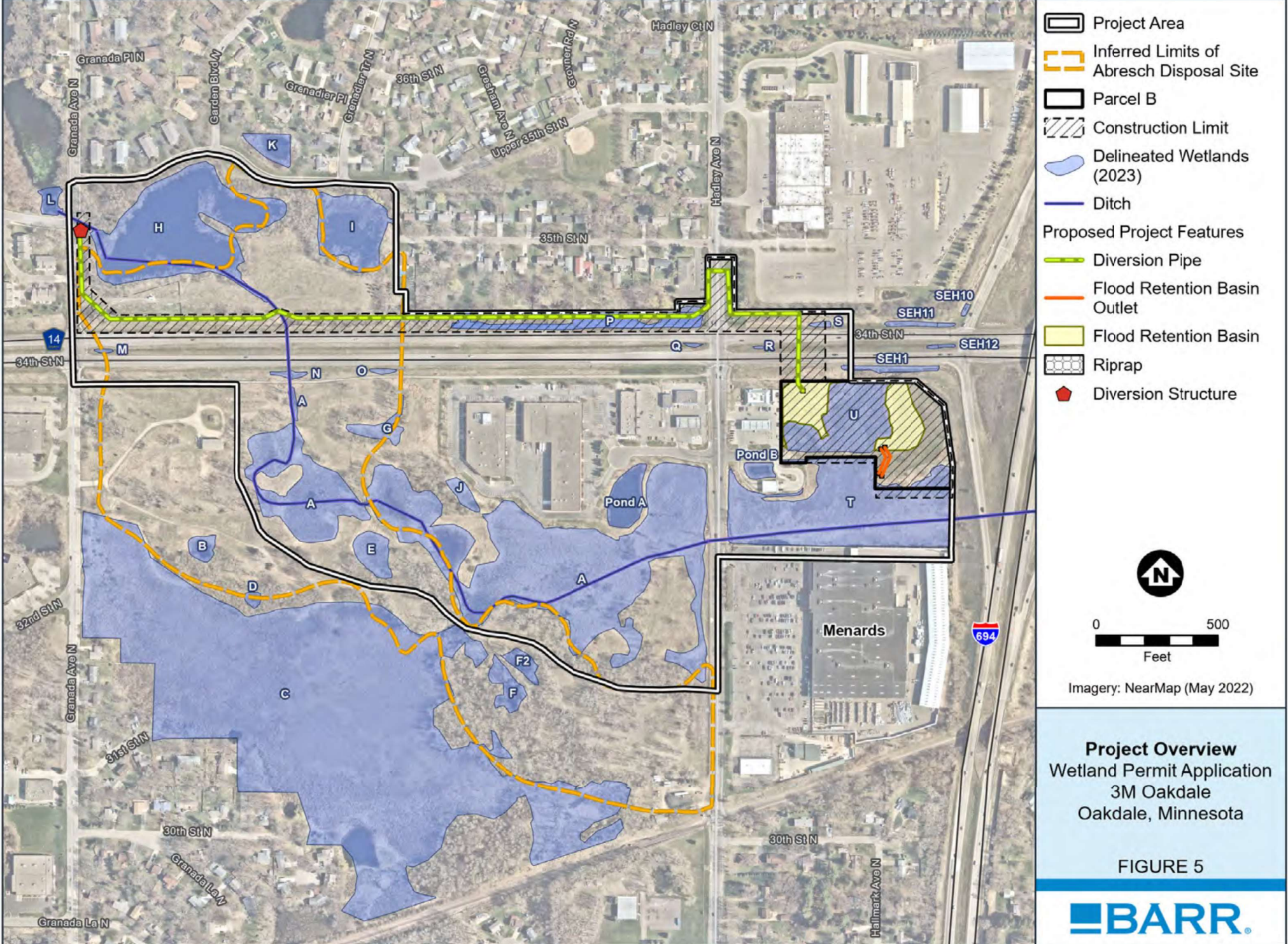
**Project Location**  
 Wetland Permit Application  
 3M Oakdale  
 Oakdale, Minnesota

FIGURE 1



MVP-2009-01812-TMS Figure 2 of 5





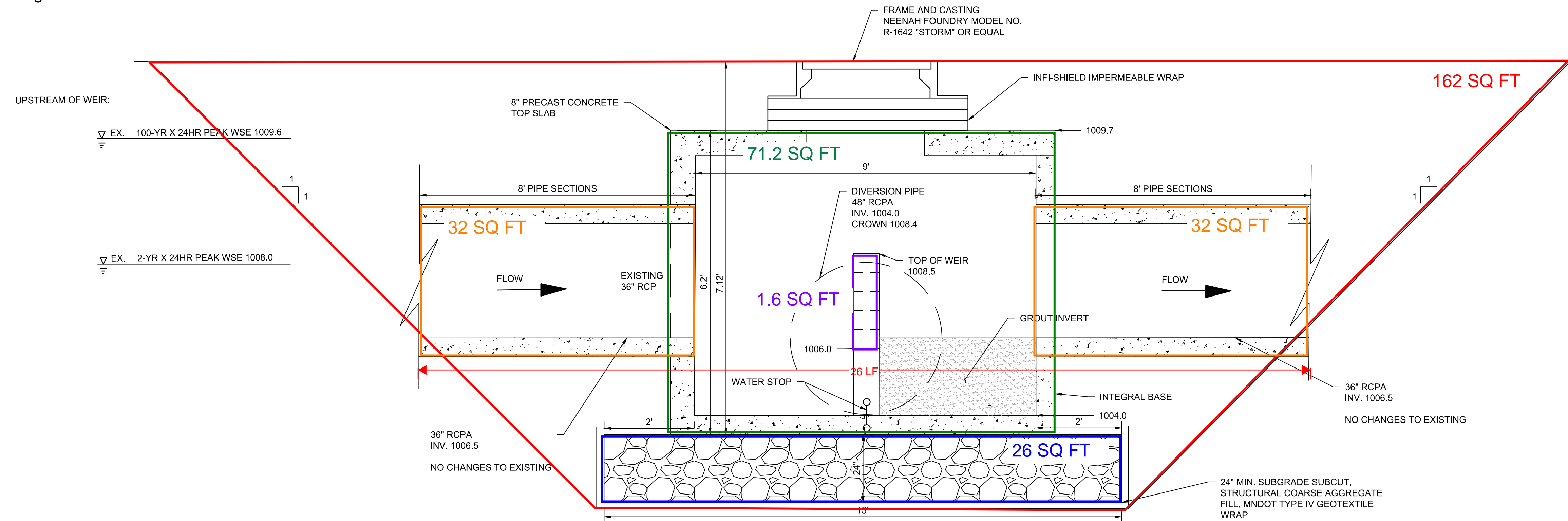


FIGURE A - WATER CONTROL STRUCTURE VOLUME

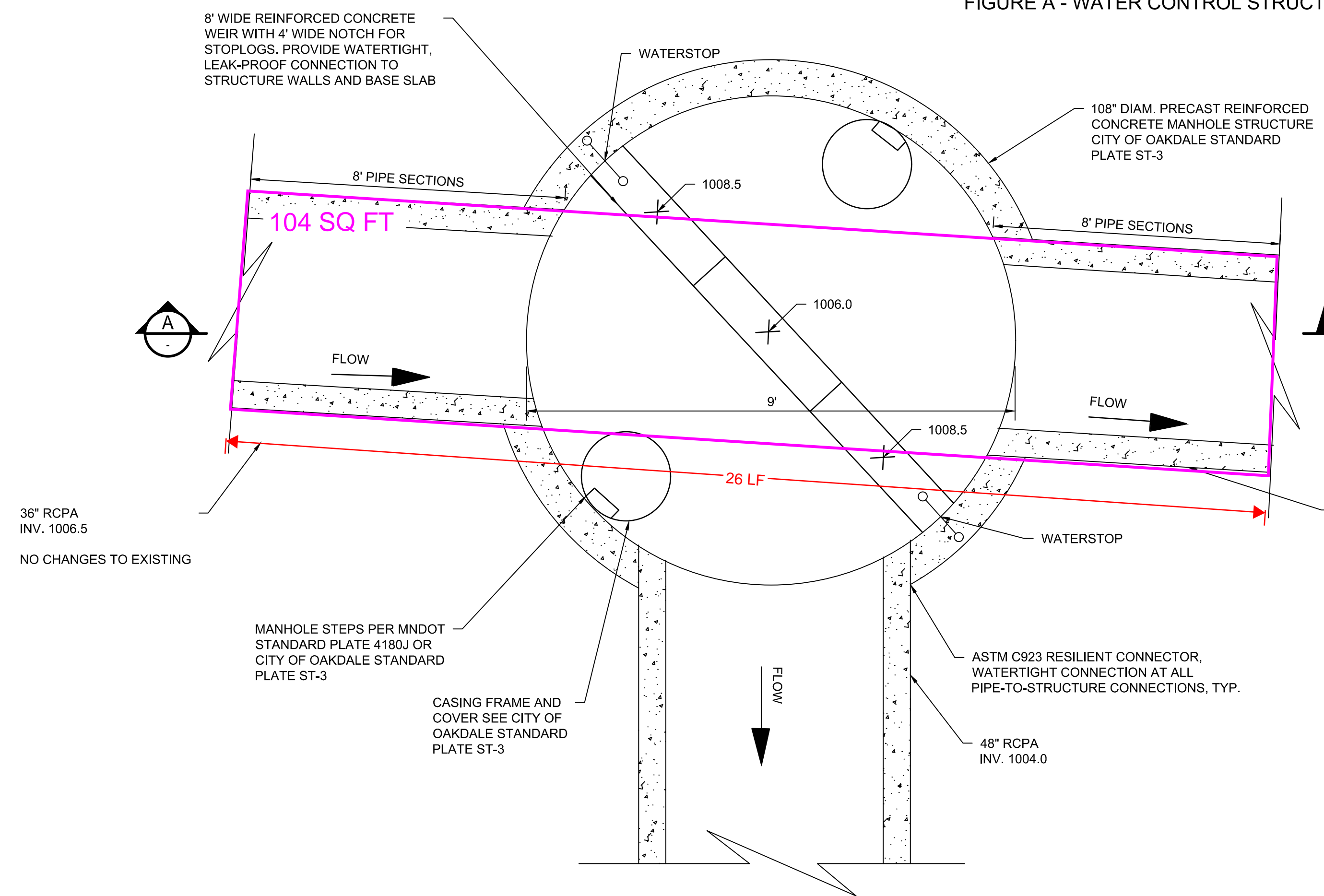


FIGURE B - WATER CONTROL STRUCTURE VOLUME

WCS Volumes	Cubic Feet	Cubic Yards	Quantity	Total	Assumptions:	Corresponding Color
WCS with 1:1 trench	9112	337.5	1	179.5	1:1 trench, 9.12 ft deep including base and lid, base width 13 ft (2 ft each side of WCS)	Red
WCS	486.95	18.04	1	27	6.2' tall, 108" plus 6" wall thickness, permanent disturbance	Green
13' x 2' WCS base	265.5	9.83	1	9.83	Aggregate base, 13' diameter, 2' deep, permanent disturbance	Blue
Trench only (WCS with base)	8359.55	309.63	1	152.5	1:1 trench subtracting volume of WCS with 13' base, temporary disturbance	
8 foot pipe section 36"	100.53	3.72	2	7.44	Existing 36" culvert pipes, 8' pipe section on either side of WCS	Orange
8 foot pipe section (36") plus flow line	326.73	12.1	1	10.7	8' long, 36" pipe section plus flow line into WCS, 6" walls, total length 26'	Pink
Weir volume in flow line	6.67	0.25	1	0.25	8" thick weir, with 2.5' within flow line, 48" wide (flow line)	Purple

DRAFT  
ISSUED FOR PERMITTING  
NOT FOR CONSTRUCTION

NO.	BY	CHK.	APP.	DATE	REVISION DESCRIPTION
B	EMO	DJF	MRM	10JAN2025	ISSUED FOR PERMITTING, NOT FOR CONSTRUCTION
A	MRM	DJF	MRM	25SEP2024	DRAFT 30% ISSUED FOR PERMITTING & DESIGN DEVELOPMENT, NOT FOR CONSTRUCTION

CLIENT	PERMIT	BID	CONSTRUCTION	RECORD
	30/10/2025			

Project Office:  
BARR ENGINEERING CO.  
4300 MARKETPOINTE DRIVE  
SUITE 200  
MINNEAPOLIS, MN 55435

Corporate Headquarters:  
Minneapolis, Minnesota  
Ph: 1-800-632-2277  
Fax: (952) 832-2601  
www.barr.com

Scale	AS SHOWN
Date	06/10/2025
Drawn	EMO
Checked	MRM/ADC/DJF
Designed	BARR
Approved	-

3M  
OAKDALE, MINNESOTA

OAKDALE DIVERSION OAKDALE, MN		BARR PROJECT No. 23/82-0047.35
WATER CONTROL STRUCTURE VOLUME CALCULATIONS		CLIENT PROJECT No. -
DWG. No. Figure 19	REV. No. A	

CADD USER: TELLERY.M; OVERVIEW FILE: M:\DESIGN\23820047.31\WCS VOLUMES 06-09-2025.DWG PLOT SCALE: 1:1 PLOT DATE: 6/10/2025 12:09 PM

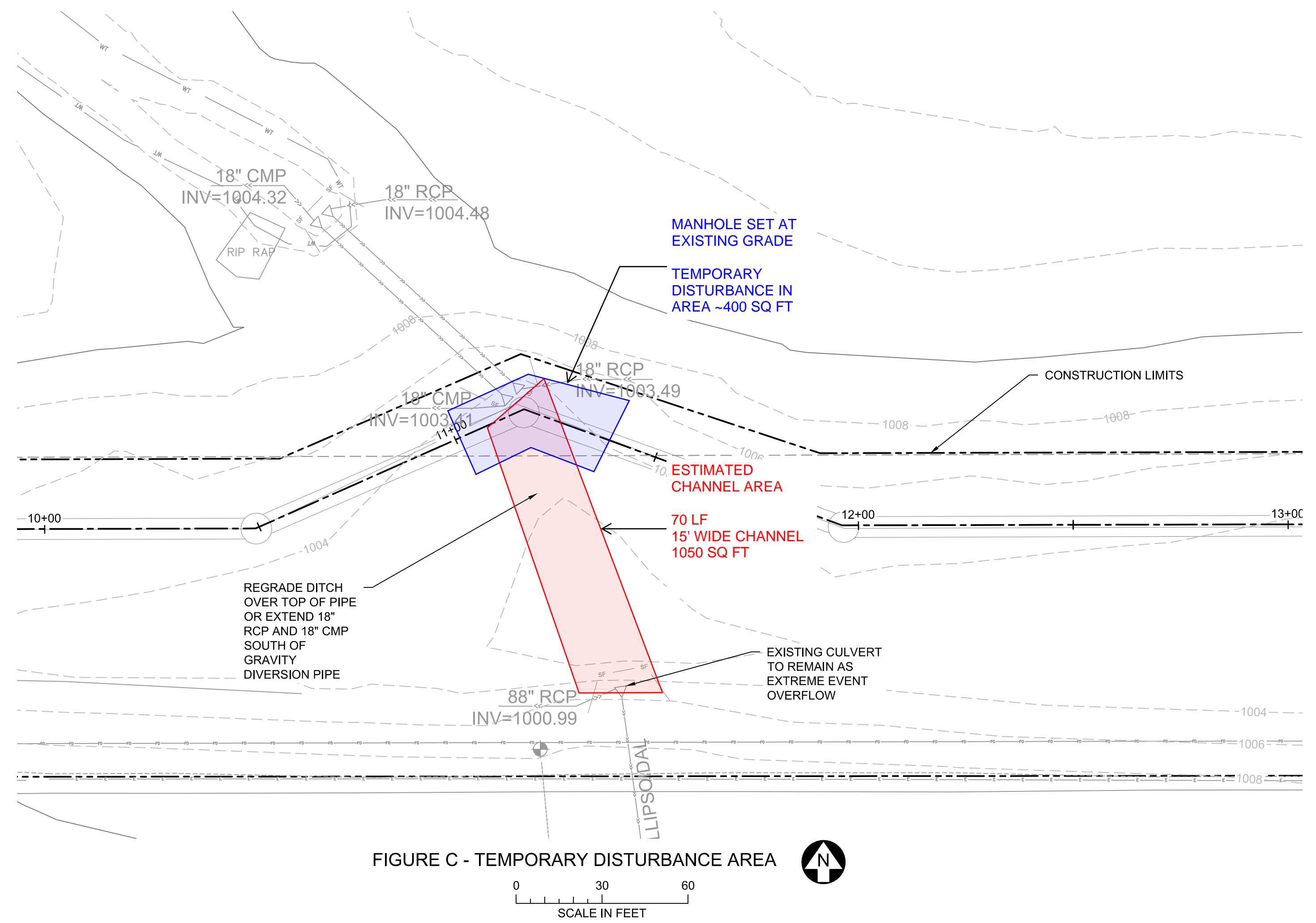


FIGURE C - TEMPORARY DISTURBANCE AREA

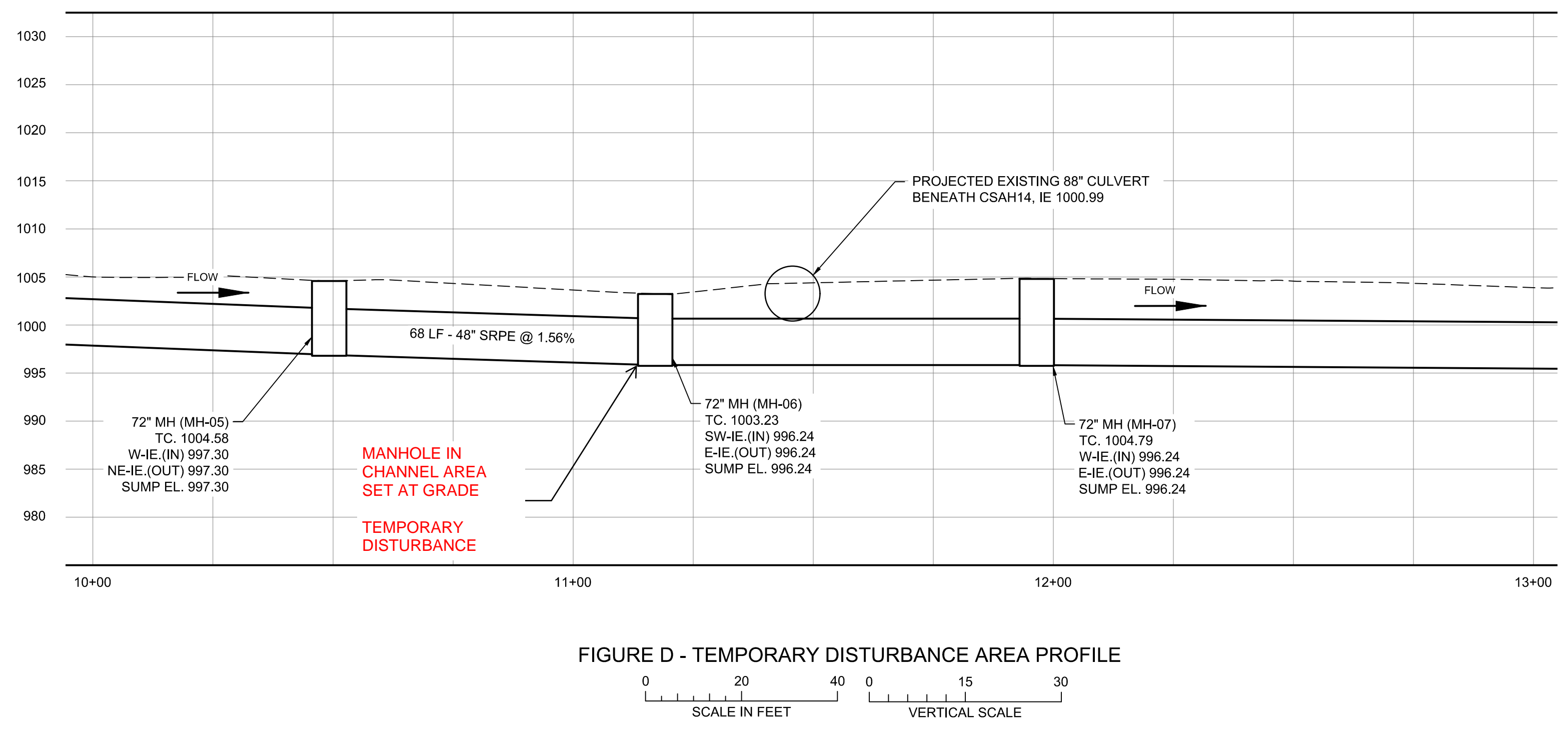


FIGURE D - TEMPORARY DISTURBANCE AREA PROFILE

DRAFT  
ISSUED FOR PERMITTING  
NOT FOR CONSTRUCTION

NO.	BY	CHK.	APP.	DATE	REVISION DESCRIPTION
B	EMO	DJF	MRM	10JAN2025	ISSUED FOR PERMITTING, NOT FOR CONSTRUCTION
A	MRM	DJF	MRM	25SEP2024	DRAFT 30% ISSUED FOR PERMITTING & DESIGN DEVELOPMENT, NOT FOR CONSTRUCTION

CLIENT	PERMIT	BID	CONSTRUCTION	RECORD	RELEASED TO/FOR	DATE RELEASED
	30/10/2025				A B C 0 1 2 3	

**BARR**  
Corporate Headquarters:  
Minneapolis, Minnesota  
Ph: 1-800-632-2277  
Fax: (952) 832-2601  
www.barr.com

Scale	AS SHOWN
Date	06/10/2025
Drawn	JNJ/EMO
Checked	MRM/DJF/ADC
Designed	BARR
Approved	-

Project Office:  
BARR ENGINEERING CO.  
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Fax: (952) 832-2601  
www.barr.com

**3M**  
OAKDALE, MINNESOTA

OAKDALE DIVERSION OAKDALE, MN		BARR PROJECT No. 23/820047.35
TEMPORARY DISTURBANCE AT EXISTING CHANNEL		CLIENT PROJECT No. -
DWG. No. Figure 20	REV. No. A	

CADD USER: TELLERY.M; OVERVIEW FILE: M:\DESIGN\23820047\31\TEMP DISTURBANCE - PLAN AND PROFILE 06-10-2025.DWG PLOT SCALE: 1:1 PLOT DATE: 6/10/2025 12:47 PM