



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

MVP

March 27, 2026

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-2011-02461-SSC MFR 1 of 1²

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.

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as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

1. SUMMARY OF CONCLUSIONS.

- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).

Name of Aquatic Resource	JD or Non-JD	Section 404/Section 10
Ditch 4 (2026)	Non-Jurisdictional	N/A
Ditch 2 (2026)	Non-Jurisdictional	N/A
Wetland 3A (2026)	Non-Jurisdictional	N/A
Wetland 6 (2026)	Non-Jurisdictional	N/A
Wetland 7 (2026)	Non-Jurisdictional	N/A
Wetland 9 (2026)	Non-Jurisdictional	N/A
Wetland 3 (2026)	Non-Jurisdictional	N/A
Wetland 5 (2026)	Non-Jurisdictional	N/A

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)
- e. January 2023 Rule preamble at 88 FR 3090

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3. REVIEW AREA.

- a. Project Area Size (in acres): 39.3 acres
- b. Location Description: The project/review area is located in Section 04, Township 030N, Range 022W, Ramsey County, Minnesota.
- c. Center Coordinates of the Project Site (in decimal degrees)
Latitude: 45.113810 Longitude: -93.052880
- d. Nearest City or Town: Saint Paul
- e. County: Ramsey
- f. State: Minnesota
- g. Other associated Jurisdictional Determinations (including outcomes):

Action ID	Type	Outcome
MVP-2011-02461-MHK	AJD	Wetlands 5, 6, 8, 9, 11, 12, and 13 were determined to be non-jurisdictional waters. This AJD was issued on September 28, 2011. The wetland IDs do not correspond with current conditions.
MVP-2011-02461-MHK	PJD	Wetlands 1, 2, 3, 4, 7, 15, and 16 were associated with a PJD issued on September 28, 2011. The Wetland IDs do not correspond with current conditions.
MVP-2011-02461-SSC	Delineation Concurrence	A delineation concurrence was issued for the approximate locations of on-site wetlands and tributaries on April 1, 2022.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. N/A⁶

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. When surface flow is present, Ditch 2 would flow south into Ditch 3 and Ditch 4 would flow south through Wetland 10 and then west into Ditch 3. Ditch 3 flows off-site to the west into the wetland complex surrounding Wilkinson Lake. Wilkinson Lake flows south through a series of lakes prior to draining into the Mississippi River, a TNW.

⁶ 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 WATERS⁷: 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 10.⁸
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

⁷ 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.

⁸ 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.

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).⁹

Ditch 4 is located between Wetland 7 and Wetland 10. Ditch 4 is not mapped on the National Wetland Inventory (NWI) or National Hydrography Database (NHD). Additionally, StreamStats (U.S. Geological Survey) did not have mapping of Ditch 4. Ditch 4 is not apparent when looking at 2-foot contours (MnTOPO). Hillshade (MnTOPO) does show a faint observable channel where Ditch 4 is located. A site visit was conducted by the wetland delineator on November 11, 2025. No visible flow was noted during this visit. The climatic conditions during the site visit were drier than normal (several trace precipitation events noted in days preceding the site visit but nothing measurable). Due to aerial tree cover and the size of the feature, Ditch 4 is not observable through aerial image review. However, based on the information discussed above, site visit conducted by the wetland delineator, and photos of Ditch 4, Ditch 4 is determined to be a swale due to the low flow, infrequent, or short duration flow within the feature. According to exclusion (b)(8) of the 2023 Rule as amended, Ditch 4 is not a water of the U.S.

- 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).

Wetlands 3, 3A, 5, 6, 7, 9 and Ditch 2 are not TNWs, territorial seas, or interstate waters and are therefore not (a)(1) waters. Wetlands 3, 3A, 5, 6, 7, and 9 were evaluated as potential (a)(4) waters but do not have a continuous surface connection to a jurisdictional water. Ditch 2 was evaluated as potential (a)(3) water and was found to not meet this category because it is not a relatively permanent waterway with a continuous surface connection to a paragraph (a)(1) or (a)(3) water.

Wetlands 3, 3A and 6, located centrally within the site, are surrounded by uplands (MnTOPO, 2-foot contours). Wetlands 3 and 3A are partially mapped on

⁹ 88 FR 3004 (January 18, 2023)

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the National Wetland Inventory (NWI). Wetland 6 is not mapped by the NWI. A National Hydrography Dataset (NHD) lake is mapped within Wetland 3 but does not describe any continuous surface connections from the lake to another jurisdictional resource. No other NHD mapping was denoted on-site. The wetland delineator described in the delineation report that there was no observed drainage features for Wetlands 3, 3A, and 6. Wetland and upland soil samples were collected for Wetlands 3 and 6, supporting that the wetlands are surrounded by uplands.

Wetland 5, located along the eastern boundary within the site, is surrounded by uplands (MnTOPO, 2-foot contours). Wetland 5 is mapped by the NWI but is not mapped by the NHD. The NWI does not map any continuous surface connection to another jurisdictional resource. The wetland delineator described in the delineation report that there was no observed drainage features for Wetland 5. Additional photo points were taken near the boundaries of Wetland 5 and 7. The wetland delineator described an upland ridge that lacked wetland vegetation separating Wetland 5 and 7. Review of available aerial imagery indicates that the wet signature on the southern respect of Wetland 5 that is found along the eastern border of the site does not have an obvious surface connection with an on or off-site aquatic resource.

Wetland 7, located along the southeastern boundary within the site, is partially mapped on the NWI. Wetland 7 is not mapped on the NHD. Contours in this area show subtle changes in topography. The wetland delineation report completed two (2) wetland-upland transects along the southern border of Wetland 7. Wetland 7 is connected to Ditch 4. Ditch 4 was determined to be an excluded feature and therefore would not serve as a continuous surface connection for Wetland 7.

Wetland 9, located in the southwest corner of the site, is not mapped on the NWI or NHD. Contours around wetland 9 show that it is surrounded by uplands. The wetland delineation report noted that an excavated ditch (Ditch 2) was connected to the southern border of Wetland 9. Ditch 2 is discussed below as a water that is not relatively permanent and would not serve as a continuous surface connection to a jurisdictional resource.

Ditch 2, located in the southwest corner of the site, is not mapped on the NWI, NHD, or StreamStats. Ditch 2 is noted as an excavated ditch in the wetland delineation report. A site visit conducted by the wetland delineation on November 11, 2025 investigated Ditch 2. No surface water was identified within the resource. The Precipitation Worksheet Using Gridded Database from the Minnesota State Climatology Office was utilized to determine the climate

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condition during the site visit. The climatic condition for November 11, 2025 was drier than normal (several trace precipitation events noted in days preceding the site visit but nothing measurable). The upstream extent of Ditch 2 has more defined banks, likely from excavation of the ditch. The downstream extent of Ditch 2 has less defined, shallower banks prior to connecting with Ditch 3. Hillshade in this area shows the upstream excavated portion but the downstream extent is less observable on hillshade. Aerial imagery was reviewed in conditions where the channel was visible: April 28, 2025 water was visible within the channel (normal climatic condition with wetter than normal first prior month, precipitation noted on day of photo and days prior), March 9, 2024 no water was visible within the channel (normal climatic condition with normal first prior month, no precipitation events noted in days preceding photo), April 17, 2020 no observable water in the channel (normal climatic condition with wetter than normal first prior month, several precipitation events noted in days preceding photo), March 31, 2020 no observable water in the channel (normal climatic condition with drier than normal first prior month, several precipitation events in days preceding photo), April 28, 2018 water observed in excavated upstream portion of Ditch 2 but not in the downstream extent (wetter than normal climatic conditions with normal first prior month, no precipitation events in days preceding photo), April 5, 2017 water observed in excavated upstream portion of Ditch 2 but not in the downstream extent (drier than normal climatic conditions with drier than normal first prior month, several precipitation events noted in days preceding photo). Based on review of this information, Ditch 2 is a non-relatively permanent waterway that is consistent with tributaries that only flow in response to precipitation events.

Wetlands 3, 3A, 5, 6, 7, 9 do not have a continuous surface connection to a relatively permanent jurisdictional water and as such do not meet the definition of adjacent and cannot be evaluated as an (a)(4) adjacent wetland; therefore, Wetlands 3, 3A, 5, 6, 7, 9 are non-tidal wetlands that are not jurisdictional under the 2023 "Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 Final Rule. Ditch 2 is a tributary evaluated under (a)(3) and determined to not be a relatively permanent water with a continuous surface connection to a paragraph (a)(1) or (a)(3) water; therefore, this non-relatively permanent feature (Ditch 2) is 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. Garigiola-Dolan Site Wetland Delineation Report dated September 20, 2021

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- b. Garigiola Site Photo Log submitted by wetland consultant on January 9, 2026
- c. Minnesota State Climatology Office, Precipitation Worksheet Using Gridded Database; accessed March 25, 2026.
- d. United States Fish and Wildlife Service, National Wetland Inventory, accessed March 25, 2026
- e. United States Geological Survey, National Hydrography Dataset, accessed on March 25, 2026
- f. United States Geological Survey, StreamStats, accessed on March 26, 2026
- g. Google Earth aerial imagery; November 11, 2025, April 28, 2025, March 9, 2024, April 17, 2020, March 31, 2020, April 28, 2018, April 5, 2017; accessed on March 25, 2026
- h. Minnesota Department of Natural Resources; Hillshade and 2-foot LiDAR contours, accessed on March 25, 2026
- i. Minnesota Department of Natural Resources; Past Climate Data, accessed March 25, 2026

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.

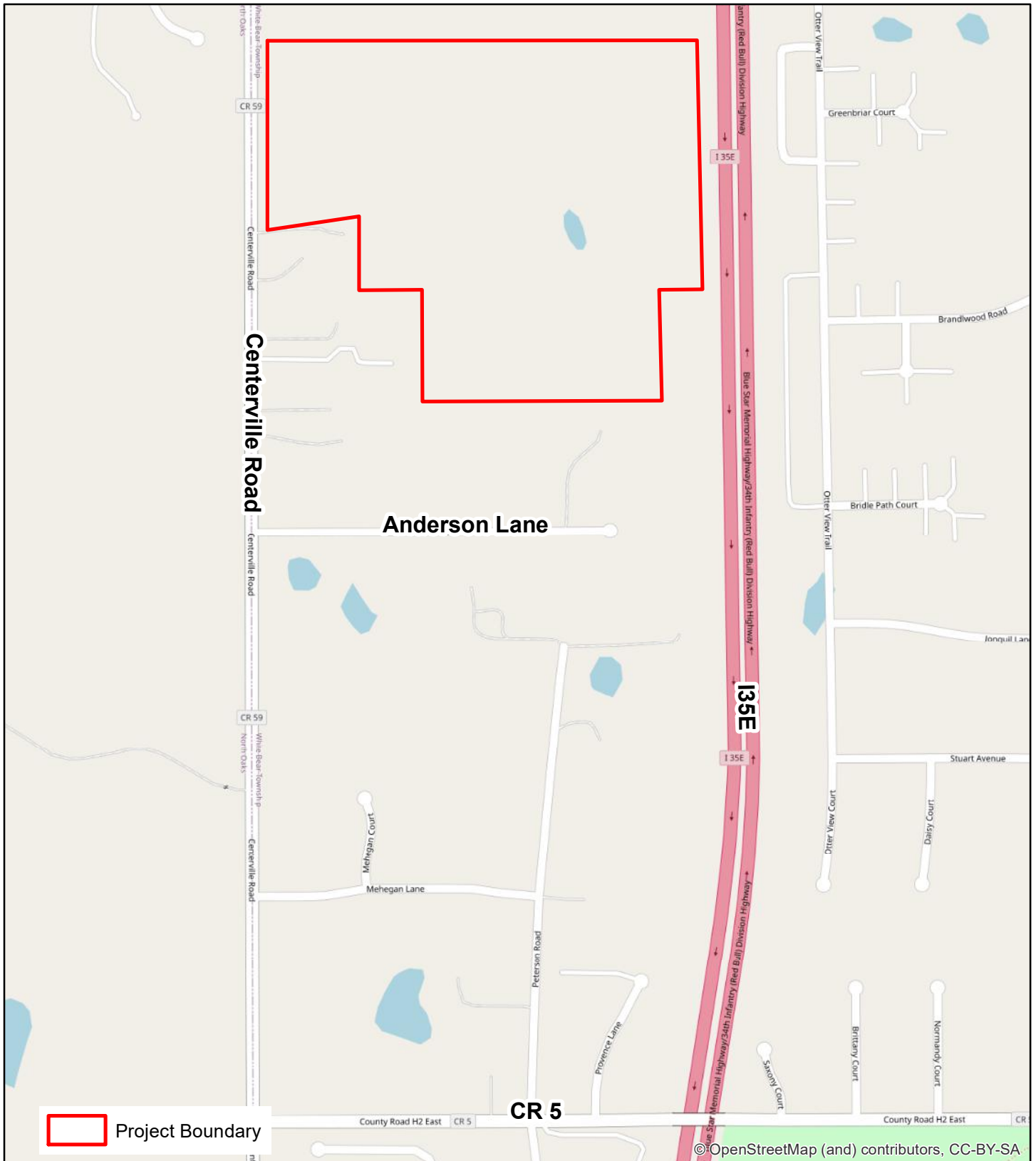


Figure 1 - Site Location Map

 **KJOLHAUG** ENVIRONMENTAL SERVICES COMPANY
Source: ESRI Streets Basemap

Garigiola-Dolan Site (KES 2019-112)
White Bear Township, Minnesota

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

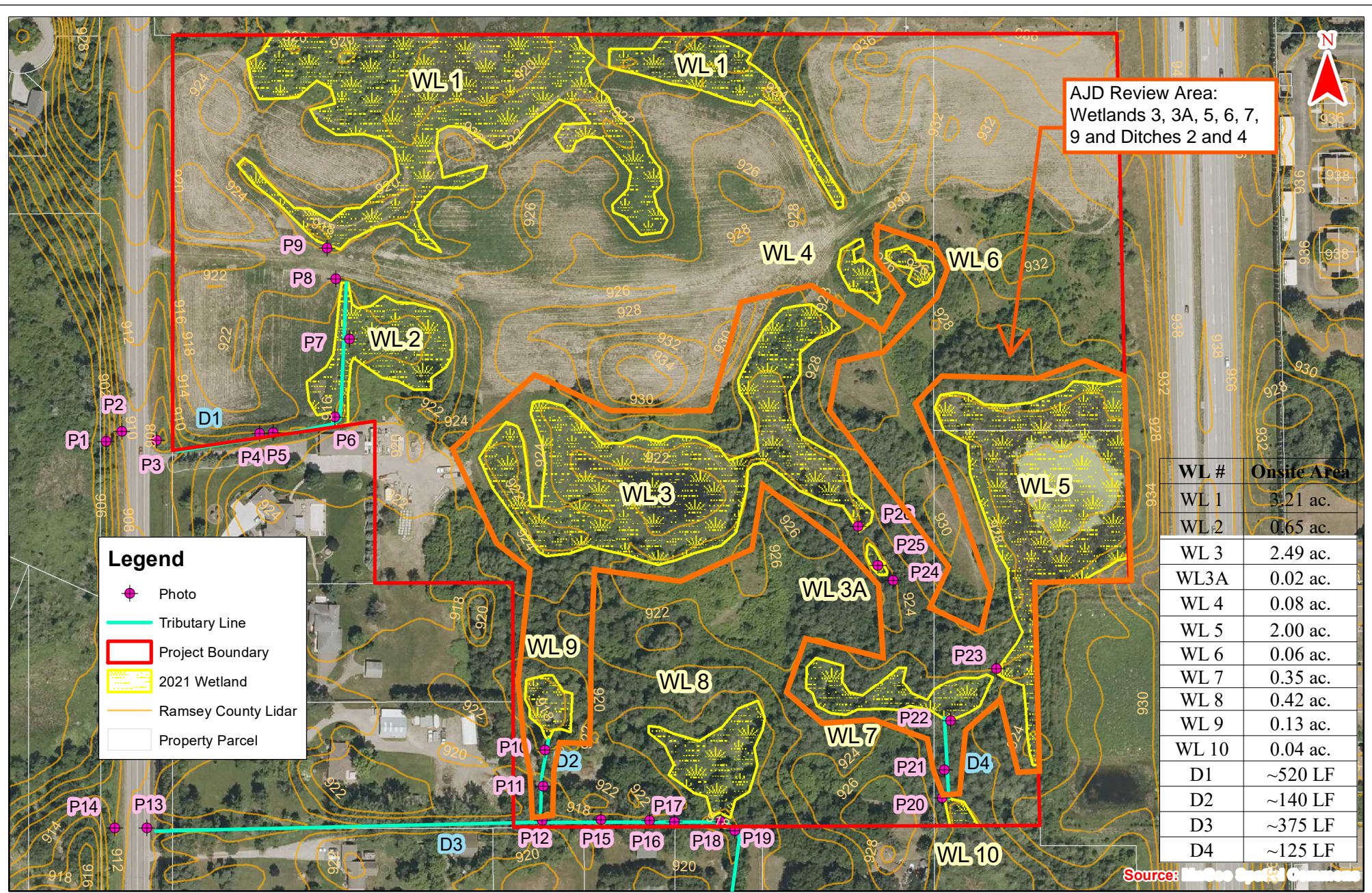


Photo Point Reference (2023 FSA Photo)

Garigiola Site (KES 2019-112)
North Oaks, Minnesota



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