



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

MVP

17 October 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-2018-02905-PJH 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.

1. SUMMARY OF CONCLUSIONS.

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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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- 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 is an approximately 6.04-acre \(263,101 square foot\) depressional basin that is non-jurisdictional.](#)
  - ii. [Wetland 2 is an approximately 0.19-acre \(8,101 square foot\) depressional basin that is non-jurisdictional.](#)
  - iii. [Wetland 3 is an approximately 0.11-acre \(4,719 square foot\) depressional basin that is non-jurisdictional.](#)
  - iv. [Wetland 4 is an approximately 0.13-acre \(5,777 square foot\) depressional basin that is 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)

## 3. REVIEW AREA.

[The subject aquatic resources are located within an approximately 30.90-acre review area identified by the yellow polygon on the figure labeled MVP-2018-02905-PJH AJD Page 2 of 4. The review area is located in Forest Lake, Washington County, Minnesota. Center coordinates are 45.2475814°, -92.9853754°. The review area is located in Section 20, Township 32 North, Range 21 West. No previous jurisdictional determinations have been completed in the review area.](#)

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

[N/A](#)

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

[N/A](#)

6. SECTION 10 JURISDICTIONAL WATERS<sup>5</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>6</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](#)

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<sup>5</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>6</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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- 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).<sup>7</sup>

[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).

[Wetland 1 \(6.04 acres\), Wetland 2 \(0.19 acres\), Wetland 3 \(0.11 acres\), and Wetland 4 \(0.13 acres\)](#), are depressional basins that are non-jurisdictional. The wetlands can be seen on the figure labeled [MVP-2018-02905-PJH AJD Page 2 of 4](#). [Wetland 1](#) extends beyond the review area to the east and south, into depressional lobes, as seen in the figure labeled [MVP-2018-02905-PJH AJD Page 3 of 4](#). [Wetland 1](#) also extends outside of the review area to the north via a man-made excavated ditch that does not meet the relatively permanent standard. The wetlands are not Traditional Navigable Waters (TNWs), territorial seas, or interstate waters, therefore, are not (a)(1) waters. The wetlands do not physically abut relatively permanent (a)(2) impoundments or jurisdictional (a)(3) tributaries. The closest tributary, Hardwood Creek, is located approximately 2.35 miles southeast of the review area. The wetlands do not have a continuous surface connection (CSC) to Hardwood Creek or any other jurisdictional waters. [Wetland 1, Wetland 2, Wetland 3, and Wetland 4](#), are non-tidal wetlands that do not have a CSC to relatively permanent jurisdictional waters, and as such do not meet the definition of adjacent and cannot be evaluated as (a)(4) adjacent wetlands;

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<sup>7</sup> 88 FR 3004 (January 18, 2023)

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therefore, they 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. Office/desktop evaluations were conducted October 9, 2025 – October 10, 2025.
- b. Aerial Imagery: Google Earth Pro, MN NAIP 2019, MN NAIP-2019-CIR.
- c. LiDAR: MNDNR Hillshade – 2016, 3DEP Hillshade.
- d. 3DEP Digital Elevation Model (DEM), 3DEP Slope, MN Contours – 2ft
- e. National Wetland Inventory (NWI), National Hydrography Dataset (NHD)

10. OTHER SUPPORTING INFORMATION.

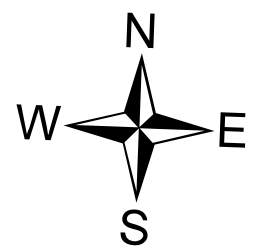
The applicant intends to construct a commercial business within the review area. Preliminary construction plans can be seen on the figure labeled MVP-2018-02905-PJH Page 4 of 4.

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.



Washington County, MN, Esri, HERE, Garmin, GeoTechnologies, Inc., NGA, USGS

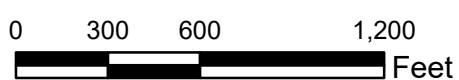
Camping World- Forest Lake  
 Site Location Map  
 Forest Road North  
 City of Forest Lake  
 Washington County, MN



Legend

Site Boundary

Project: WSM22-001-01





**Legend**

- Site Boundary
- Sample Point
- Wetland Line
- Wetland

**Camping World- Forest Lake  
Wetland Delineation Map  
Forest Road North  
City of Forest Lake  
Washington County, MN**



Wetland Delineation was conducted by  
Chad Fradette, EP, Chem,  
WDNR Professionally Assured Wetland Delineator  
with assistance from  
Shyann Banker, Environmental Scientist,  
WDNR Professionally Assured Wetland Delineator

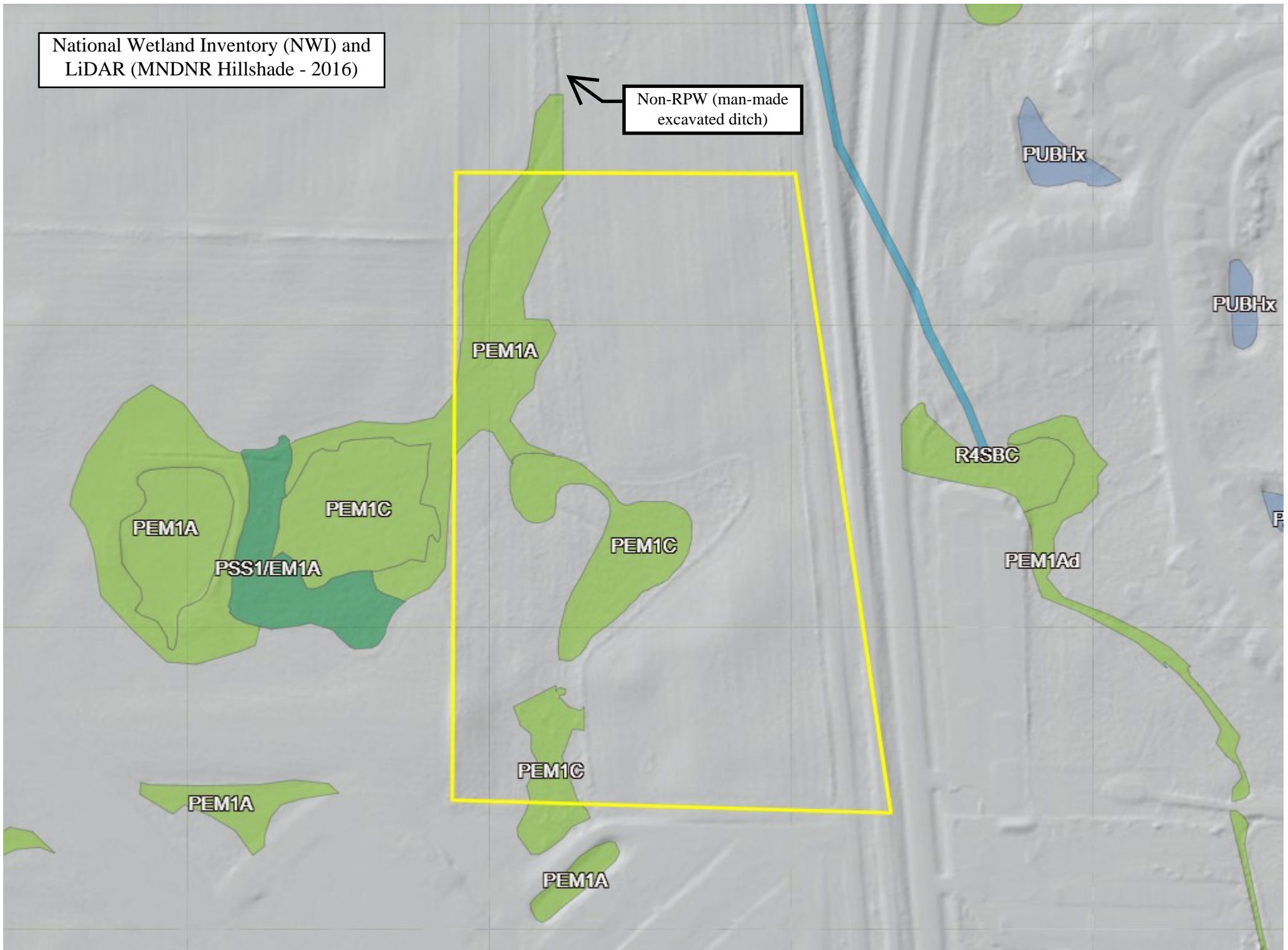
Project: WSM22-001-01



PO Box 680 Pulaski, WI 54162  
Phone: 920.615.0019 • Website: [www.evergreenwis.com](http://www.evergreenwis.com)

National Wetland Inventory (NWI) and  
LiDAR (MNDNR Hillshade - 2016)

Non-RPW (man-made  
excavated ditch)



**PRELIMINARY:  
 NOT FOR  
 CONSTRUCTION**

**FOREST ROAD NORTH GARAGE  
 CONDO**

FOREST LAKE, MN 55025

KSSK INVESTMENTS, LLC.  
 1402 WYOMING DRIVE, WILMINGTON, MN 55097

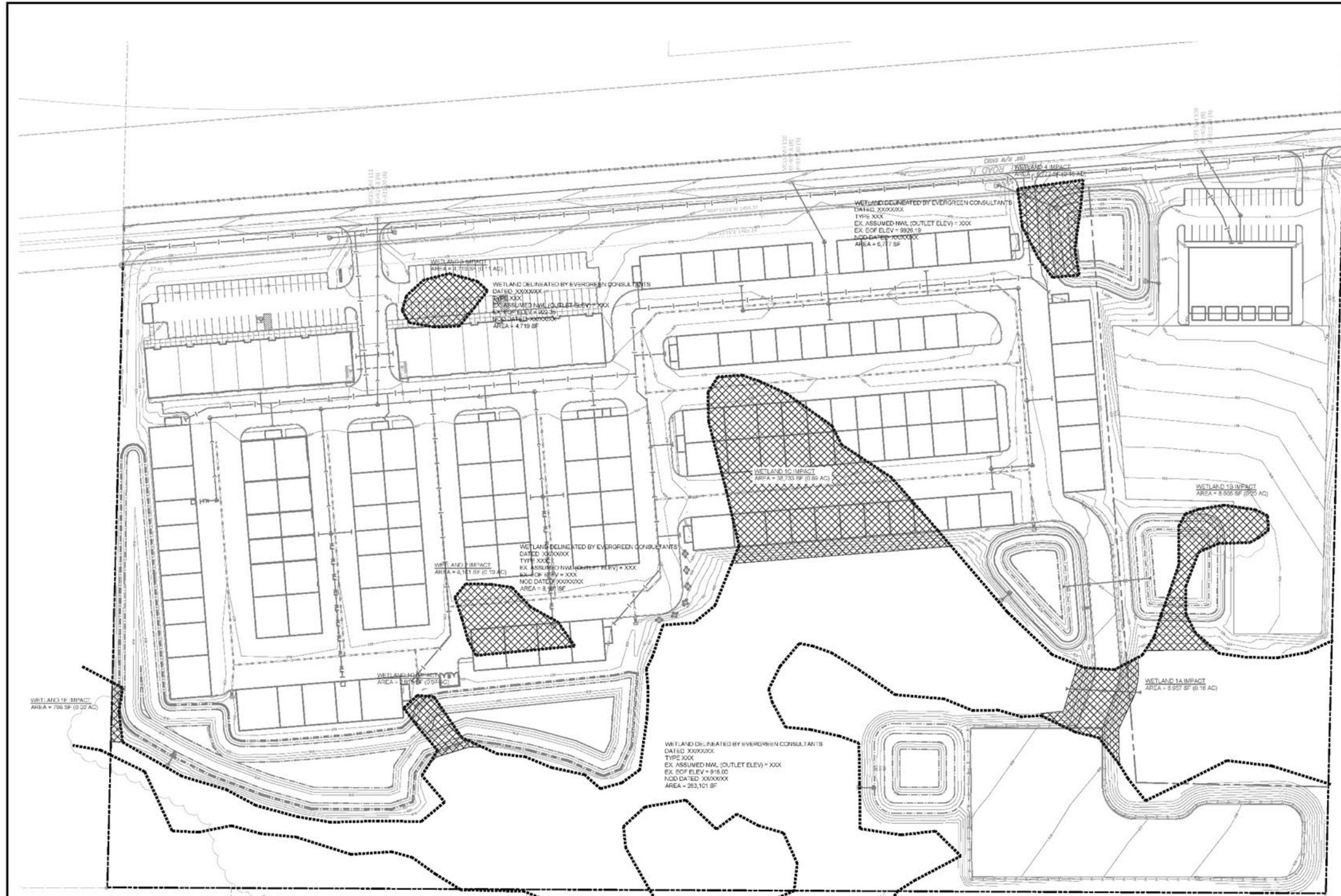
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.  
 Matthew R. Fairbairn  
 DATE: 08/22/20 DATE: 08/22/20 LICENSE NO. 44285

DATE	DESCRIPTION

DATE	DESCRIPTION

WETLAND PLAN

**W1.0**



EXISTING WETLANDS ON SITE  
 WL1 = 263,101 SF (0.4201 AC)  
 WL2 = 6,101 SF (0.1050 AC)  
 WL3 = 4,719 SF (0.1003 AC)  
 WL4 = 6,777 SF (0.1550 AC)  
 TOTAL NET EXISTING WETLAND AREA = 280,698 SF (0.3768 AC)

WETLAND FILL AREA  
 FILL AREA 'A' = 6,907 SF  
 FILL AREA 'B' = 8,505 SF  
 FILL AREA 'C' = 35,733 SF  
 FILL AREA 'D' = 2,816 SF  
 FILL AREA 'E' = 796 SF  
 FILL AREA 'F' = 16,511 SF  
 FILL AREA 'G' = 4,119 SF  
 FILL AREA 'H' = 6,777 SF  
 TOTAL FILL AREA = 77,506 SF (1.7792 AC)

TOTAL FILL = 77,506 SF  
 REQUIRED MITIGATION ON 2:1 = 155,012 SF

**WETLAND IMPACT LEGEND:**  
 WETLAND AREA IMPACTED

**WETLAND LEGEND:**  
 PROPERTY LINE  
 WETLAND LINE

