



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

CEMVP-RD

February 19, 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), MVP-2024-00507-MWV.

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>1</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>2</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>3</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.

- 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).

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<sup>1</sup> 33 CFR 331.2.

<sup>2</sup> Regulatory Guidance Letter 05-02.

<sup>3</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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Name of Aquatic Resource	JD or Non-JD	Section 404/Section 10
Wetland 1 / Wet Ditch 1	Non-Jurisdictional	Excluded feature
Wet Ditch 3 (0.06 acre)	Non-Jurisdictional	Excluded feature
Wet Ditch 8 (0.14 acre)	Non-Jurisdictional	Excluded feature
Wet Ditch 12 West (0.04 acre)	Non-Jurisdictional	Excluded feature
Wet Ditch 12 East (0.04 acre)	Non-Jurisdictional	Excluded feature
Wet Ditch 14 (0.02 acre)	Non-Jurisdictional	Excluded feature
Wet Ditch 15 (0.07 acre)	Non-Jurisdictional	Excluded feature

## 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 review area for this determination includes seven roadside ditches, labeled Wetland 1 (351 square feet), Wet Ditch 3 (0.06 acre), Wet Ditch 8 (0.14 acre), Wet Ditch 12 West (0.04 acre), Wet Ditch 12 East (0.04 acre), Wet Ditch 14 (0.02 acre), and Wet Ditch 15 (0.07 acre).

- a. Location Description: The approximate midpoint of the project area is located in Section 12, Township 125N, Range 029W, Stearns County, Minnesota.
- b. Center Coordinates of the Project Site (in decimal degrees)  
Latitude: 45.647970 Longitude: -94.263980
- c. Nearest City or Town: Sartell
- d. County: Stearns
- e. State: Minnesota
- f. Other associated Jurisdictional Determinations (including outcomes): N/A

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. N/A
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. N/A
6. SECTION 10 JURISDICTIONAL WATERS<sup>4</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>5</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. N/A
  - 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>4</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>5</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.

- 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>6</sup>

The features identified in the review area are Wetland 1, Wet Ditch 3, Wet Ditch 8, Wet Ditch 12 West, Wet Ditch 12 East, Wet Ditch 14, and Wet Ditch 15. These features were constructed in upland, drain only upland, do not carry relatively permanent flow, and are not relocated tributaries.

Wetland 1, Wet Ditch 3, Wet Ditch 8, Wet Ditch 12 West, Wet Ditch 12 East, Wet Ditch 14, and Wet Ditch 15 are roadside ditches that were constructed in uplands to convey runoff along Townline Road. This was confirmed by reviewing desktop resources, including the National Wetland Inventory (NWI) which does not identify wetlands in the area of Wet Ditch 3, Wet Ditch 8, Wet Ditch 12 West, Wet Ditch 12 East, Wet Ditch 14, and Wet Ditch 15. Each of these features is surrounded by upland and was constructed in upland. Other resources reviewed to support this determination include Google Earth aerial imagery, US Geological Service 3DEP Hillshade and DEM maps; MNDNR 2-foot contour maps; NWI maps; NHD data; and NRCS hydric soil data.

Considering the information above, these features have been determined to be Paragraph (b)(3) excluded ditches and are not subject to Section 404 of the Clean Water Act (CWA).

- 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.

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<sup>6</sup> 88 FR 3004 (January 18, 2023)

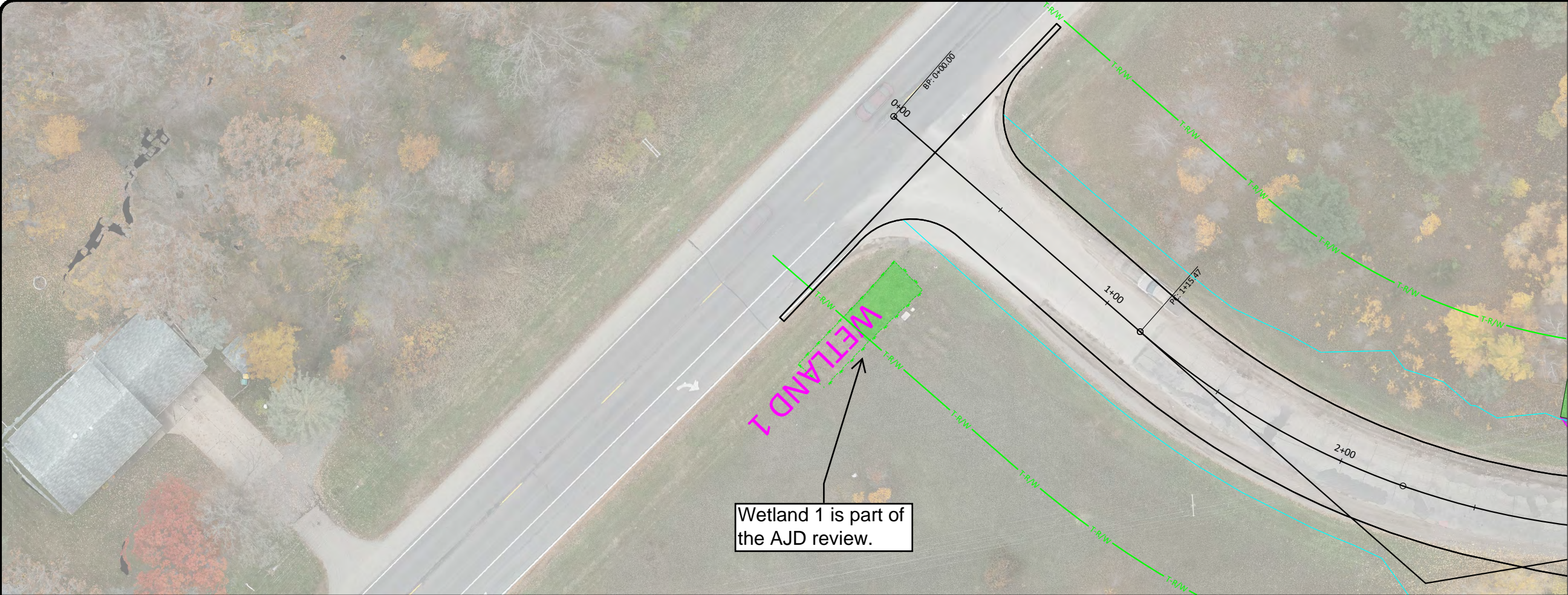
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- a. Google Earth Imagery dated 2015, 2016, 2022, and 2023. Accessed February 14, 2025.
- b. USGS 3DEP Elevation. Accessed February 14, 2025.
- c. USDA NRCS Soil Survey SSURGO and STATGO. Accessed February 14, 2025.
- d. USFWS National Wetland Inventory (MapServer). Accessed February 14, 2025.
- e. USGS TNM – National Hydrography Dataset. Accessed February 14, 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.



# WETLAND IMPACTS

- PERMANENT WETLAND IMPACTS (FILL)
- PERMANENT WETLAND IMPACTS (CUT)
- TEMPORARY WETLAND IMPACTS

WETLAND #1 - WET DITCH (INCIDENTAL TYPE 2/ FWM WITH SEDGE AND RCG.  
TEMPORARY IMPACTS: 351 SQFT (.008 ACRES)

**PRELIMINARY**  
NOT FOR CONSTRUCTION

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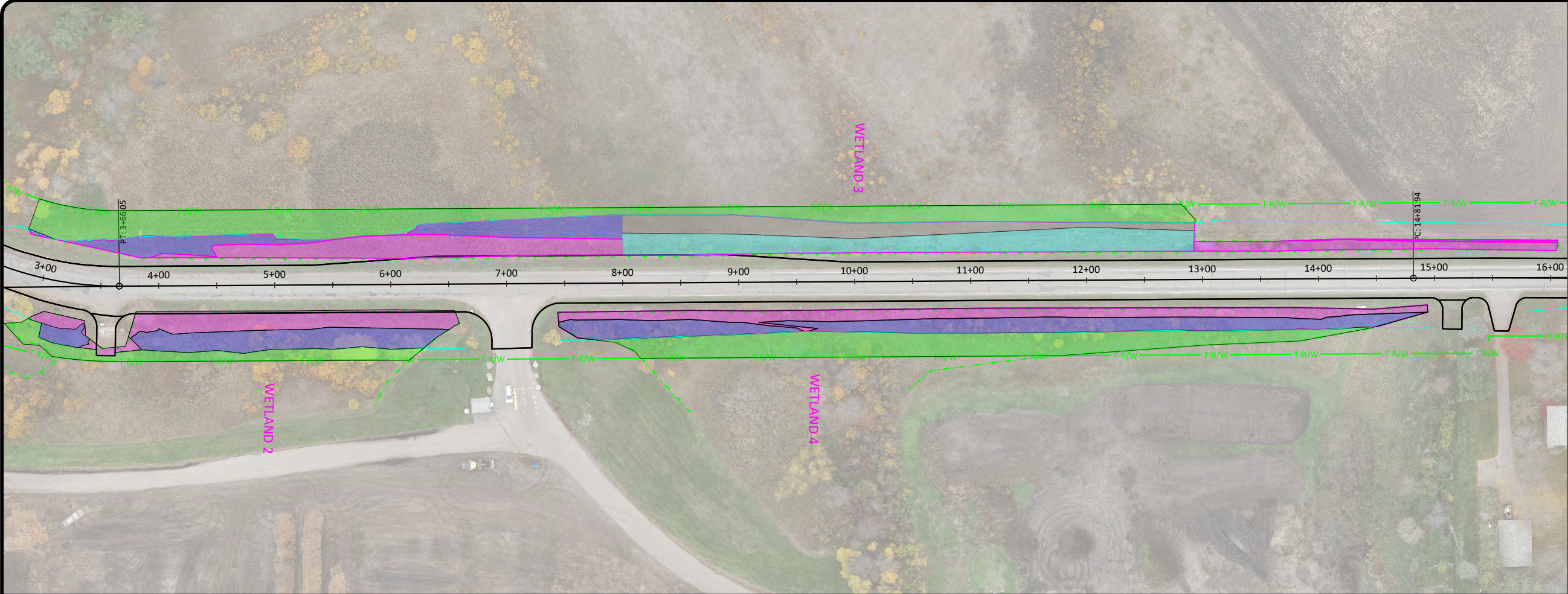


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TOWN LINE ROAD RECONSTRUCTION CONCEPTUAL PLAN STEARNS COUNTY, MN
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WETLAND IMPACTS
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# WETLAND IMPACTS

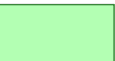
PERMANENT WETLAND IMPACTS (FILL)



PERMANENT WETLAND IMPACTS (CUT)



TEMPORARY WETLAND IMPACTS



EXISTING LIMIT OF IMPACT  
(EXISTING DITCH)



PROPOSED LIMIT OF IMPACT  
(DITCH SHIFT)



WETLAND #2 - TYPE 2,6 / FWM, SHRUB SWAMP WITH TYPE 6 DOMINANT. SEDGE / RCG AND WILLOW

PERMANENT IMPACTS (FILL): 5397 SQFT (.12 ACRES)  
PERMANENT IMPACTS (CUT): 4969 SQFT (.11 ACRES)  
TEMPORARY IMPACTS: 2107 SQFT (.05 ACRES)

WETLAND #3 - TYPE 2,6 / FWM, SHRUB SWAMP WITH TYPE 2 DOMINANT. SEDGE, RCG AND WILLOW.

PERMANENT IMPACTS (FILL): 12627 SQFT (.29 ACRES)  
PERMANENT IMPACTS (CUT): 14242 SQFT (.33 ACRES)  
TEMPORARY IMPACTS: 15656 SQFT (.36 ACRES)  
EXISTING LIMIT OF IMPACT (EXISTING DITCH): 8393 SQFT (.19 ACRES)  
PROPOSED LIMIT OF IMPACT (DITCH SHIFT): 5501 SQFT (.13 ACRES)  
TOTAL PERMANENT IMPACTS (STA 13+00 TO 16+00): 2644 SQFT (.06 ACRES)

Total Regulated impacts are 0.23 acre since Wet Ditch 3 is not regulated.

Wet Ditch 3

WETLAND #4 - TYPE 2,6 / FWM, SHRUB SWAMP WITH TYPE 6 DOMINANT. SEDGE, RCG AND WILLOW.

PERMANENT IMPACTS (FILL): 6208 SQFT (.14 ACRES)  
PERMANENT IMPACTS (CUT): 8529 SQFT (.20 ACRES)  
TEMPORARY IMPACTS: 11092 SQFT (.25 ACRES)

PRELIMINARY  
NOT FOR CONSTRUCTION

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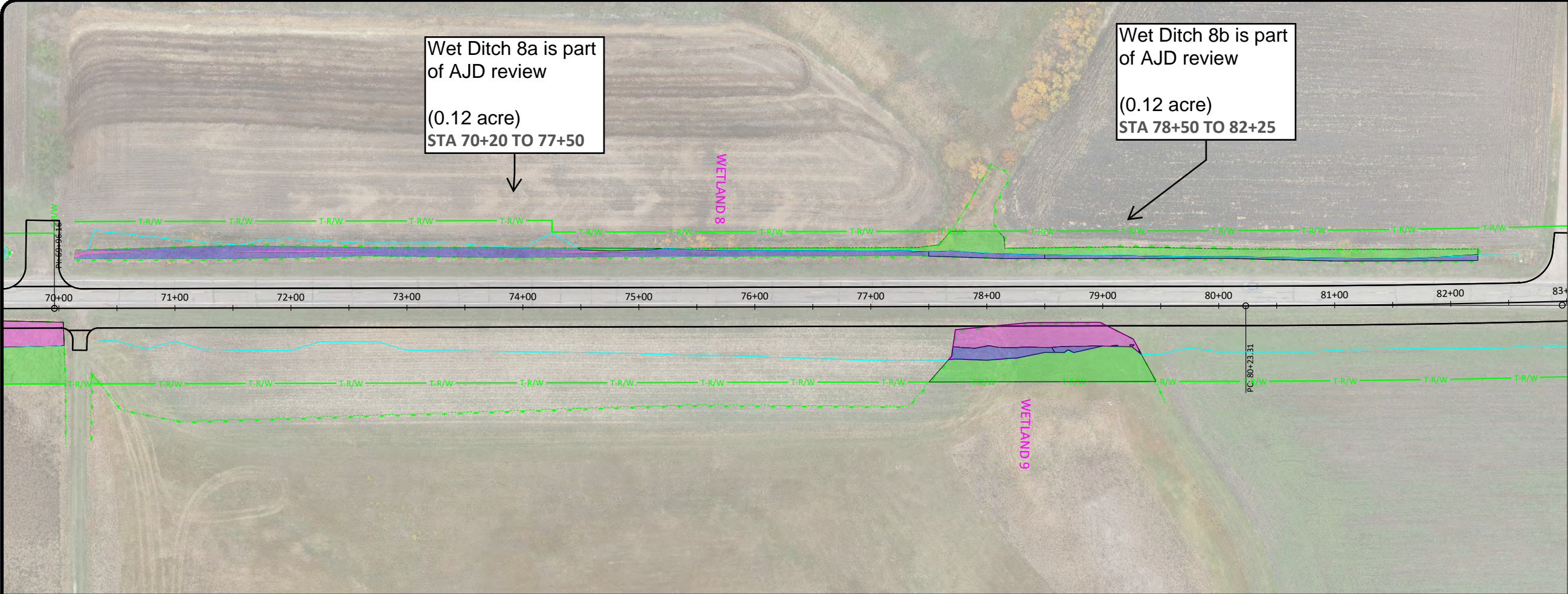


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CONCEPTUAL PLAN  
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# WETLAND IMPACTS

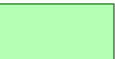
PERMANENT WETLAND IMPACTS (FILL)



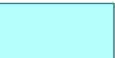
PERMANENT WETLAND IMPACTS (CUT)



TEMPORARY WETLAND IMPACTS



EXISTING LIMIT OF IMPACT  
(EXISTING DITCH)



WETLAND #8 - TYPE 2 / FWM, GIANT GOLDENROD, RCG. WETTED PERIMETER OF DITCH BOTTOM ON SOUTH PORTION IS A WET DITCH CONSIDERED INCIDENTAL. PART OF LARGER COMPLEX FURTHER NORTH. NORTHERN PORTION OF WETTED DITCH PERIMETER IS ALSO INCIDENTAL (WET DITCH).

PERMANENT IMPACTS (FILL): 2318 SQFT (.05 ACRES)

PERMANENT IMPACTS (CUT): 20528 SQFT (.47 ACRES)

TEMPORARY IMPACTS: 12411 SQFT (.28 ACRES)

EXISTING LIMIT OF IMPACT (EXISTING DITCH): 16346 SQFT (.38 ACRES)

TOTAL PERMANENT IMPACTS (STA 70+20 TO 77+50): 5429 SQFT (.12 ACRES)

TOTAL PERMANENT IMPACTS (STA 78+50 TO 82+25): 939 SQFT (.02 ACRES)

WETLAND #9 - TYPE 2,6 / FWM, SHRUB SWAMP WITH TYPE 2 DOMINANT. SEDGE, RCG AND WILLOW.

PERMANENT IMPACTS (FILL): 28570 SQFT (0.66 ACRES)

PERMANENT IMPACTS (CUT): 9246 SQFT (0.21 ACRES)

TEMPORARY IMPACTS: 30778 SQFT (0.71 ACRES)

Total Regulated impacts are 0.33 acre since Wet Ditch 8 is not regulated.

Wet Ditch 8

PRELIMINARY  
NOT FOR CONSTRUCTION

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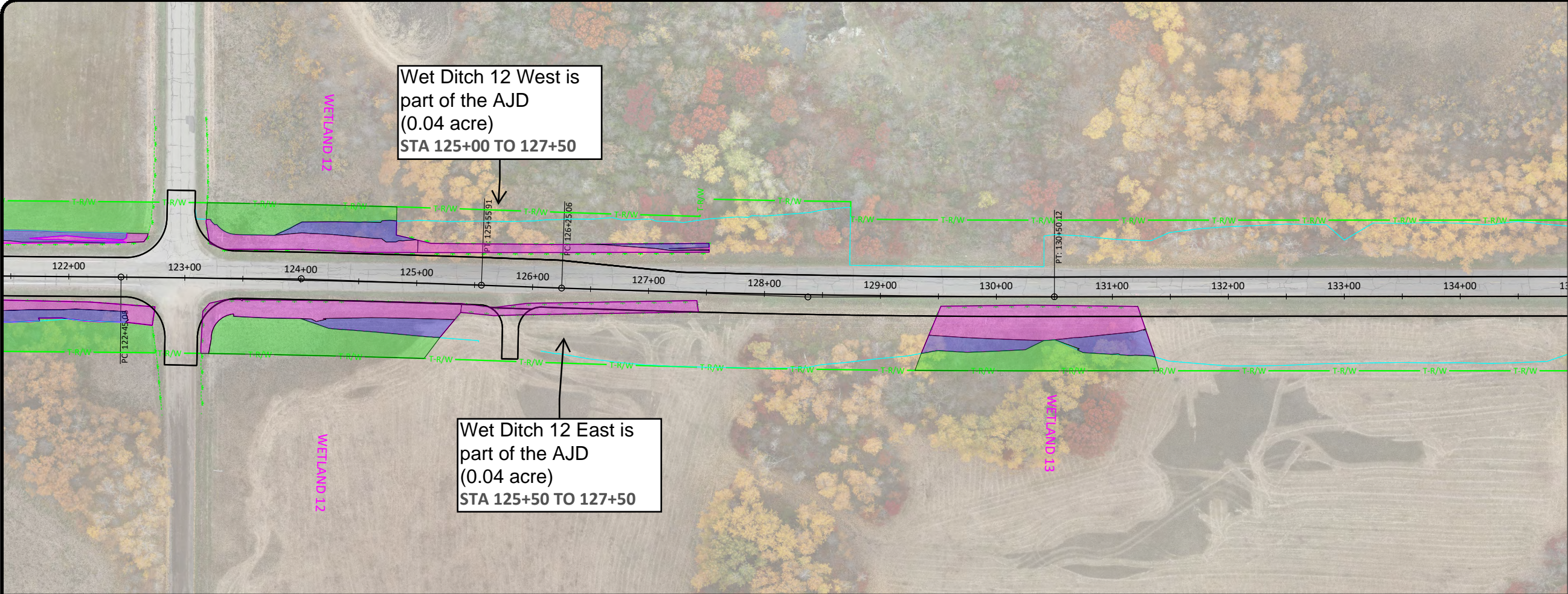


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# WETLAND IMPACTS

PERMANENT WETLAND IMPACTS (FILL)



PERMANENT WETLAND IMPACTS (CUT)



TEMPORARY WETLAND IMPACTS



WETLAND #12 - TYPE 2,3 / FWM, SHALLOW MARSH WITH TYPE 3 DOMINANT. CATTAIL, SEDGE AND RCG.

PERMANENT IMPACTS (FILL): 35765 SQFT (0.82 ACRES)

PERMANENT IMPACTS (CUT): 13017 SQFT (0.30 ACRES)

TEMPORARY IMPACTS: 60205 SQFT (1.38 ACRES)

TOTAL PERMANENT IMPACTS (STA 125+00 TO 127+50): 1874 SQFT (.04 ACRES)

TOTAL PERMANENT IMPACTS (STA 125+50 TO 127+50): 1893 SQFT (.04 ACRES)

WETLAND #13 - TYPE 2 / FWM WITH SEDGE AND RCG.

PERMANENT IMPACTS (FILL): 4845 SQFT (0.11 ACRES)

PERMANENT IMPACTS (CUT): 2258 SQFT (0.05 ACRES)

TEMPORARY IMPACTS: 3568 SQFT (0.08 ACRES)

Total Regulated impacts are 0.74 acre since Wet Ditches 12 West and 12 East are not regulated.

Wet Ditch 12 West and Wet Ditch 12 East

PRELIMINARY  
NOT FOR CONSTRUCTION

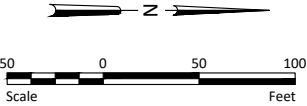
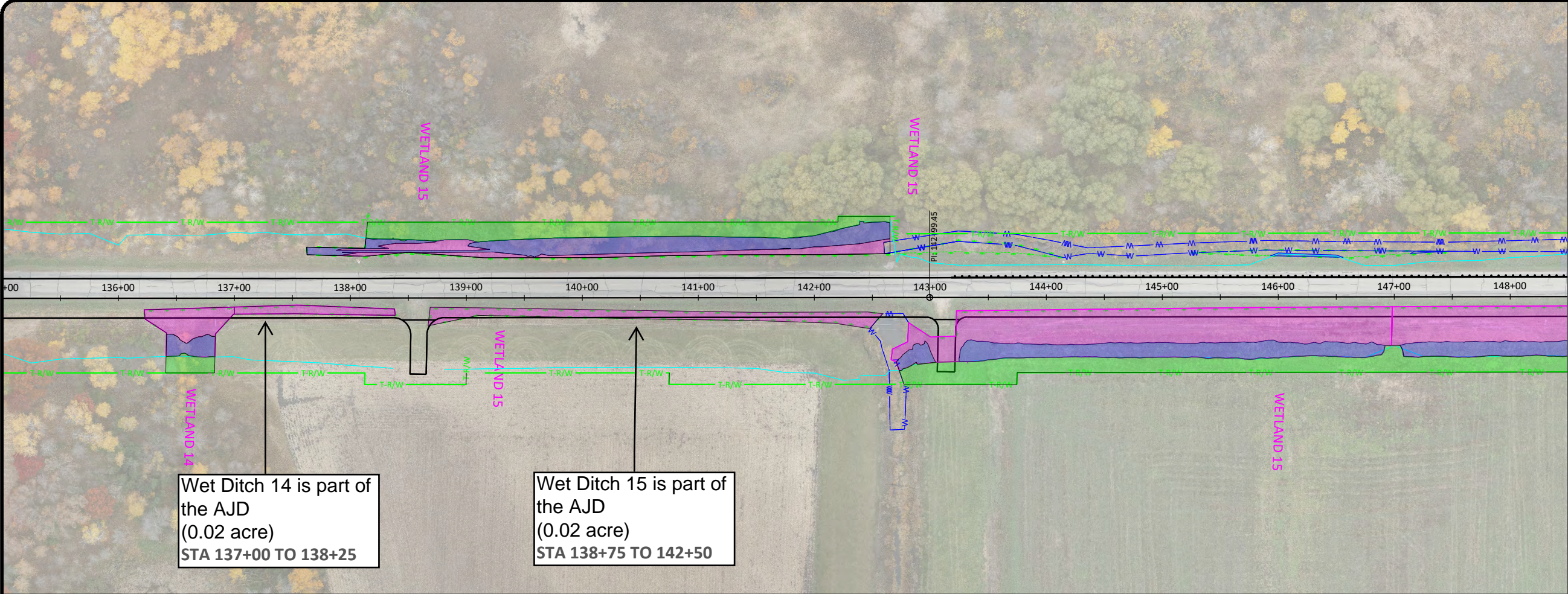


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# WETLAND IMPACTS

PERMANENT WETLAND IMPACTS (FILL)



PERMANENT WETLAND IMPACTS (CUT)



TEMPORARY WETLAND IMPACTS



WETLAND #14 - TYPE 2/ FWM WITH SEDGE AND RCG.

PERMANENT IMPACTS (FILL): 2461 SQFT (0.06 ACRES)

PERMANENT IMPACTS (CUT): 679 SQFT (0.02 ACRES)

TEMPORARY IMPACTS: 611 SQFT (0.01 ACRES)

TOTAL PERMANENT IMPACTS (STA 137+00 TO 138+25): 913 SQFT (.02 ACRES)

Total Regulated impacts are 0.04 acre since Wet Ditch 14 is not regulated.

Wet Ditch 14

WETLAND #15 -

TOTAL PERMANENT IMPACTS (STA 138+75 TO 142+50): 3139 SQFT (.07 ACRES)

Wet Ditch 15

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NOT FOR CONSTRUCTION

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