



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

MVP

June 18, 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-2025-00353-TJH

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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SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVP-2025-00353-TJH

- 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 1	Non-Jurisdictional	Non-WOTUS
Basin 3	Non-Jurisdictional	Non-WOTUS
Basin 4	Non-Jurisdictional	Non-WOTUS
Basin 1	Non-Jurisdictional	Non-WOTUS
Basin 2	Non-Jurisdictional	Non-WOTUS

## 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 for this determination includes 5 non-jurisdictional ditches labeled as Ditch 1 (0.02 acre) Basin 3 (0.027), Basin 4 (0.03), Basin 1 (0.017) and Basin 2 (0.012) on the attached figures labeled as 2025-00353-TJH Figures 1 of 5 through 5 of 5. A Level 2 delineation was completed at this project site by Mower County SWCD. The review areas are located along approximately 1000-foot segments of County State Aid Highway (CSAH) 7 and adjacent rural lands in Sections 34 and 35, Township 104 North, Range 16 West and Section 2, Township 103 North, Range 16 West, Mower County, Minnesota. The approximate center coordinates of SCLiP 1 (in decimal degrees) are Latitude: 43.768960, Longitude: -92.729410. The approximate center coordinates of SCLiP 2 (in decimal degrees) are Latitude: 43.761020, Longitude: -92.722499 There are no other JDs associated with this review area.

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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>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. 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

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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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- 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).<sup>7</sup>

Ditch 1, Basin 3, Basin 4, Basin 1 and Basin 2 are roadside ditches constructed in upland within the CSAH 7 right of way, draining only upland, and do not carry relatively permanent flow based on review of the wetland delineation report and desktop resources including US Geological Service 3DEP Hillshade and DEM maps; MNDNR 2-foot contour maps MN DNR NWI Wetland Finder/NWI maps; NHD data; and NRCS hydric soil data; and aerial imagery from Google Earth Pro. Based on the wetland delineation and desktop resources reviewed, these aquatic resources were excavated wholly in and draining only uplands and do not carry a relatively permanent flow and, according to exclusion (b)(3) of the 2023 Rule, as amended, are not waters of the United States.

- 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. Wetland Delineation report prepared by Mower County SWCD. [
  - b. Google Earth Imagery. Accessed June 16, 2025.
  - c. USGS LiDAR, 3DEP Elevation Model. Accessed June 16, 2025.
  - d. USGS TNM – National Hydrography Dataset. Accessed June 16, 2025.

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

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e. USFWS NWI Maps. Accessed June 16, 2025

f. USDA/NRCS Soil Survey Map. Accessed June 16, 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.

MINNESOTA DEPARTMENT OF TRANSPORTATION—DISTRICT 6  
MOWER COUNTY  
DEXTER AND SARGEANT TOWNSHIPS

CONSTRUCTION PLAN FOR: RECLAMATION, REMOVALS, EXCAVATION, GRADING, CULVERT REPLACEMENT, BRIDGE REMOVAL, BRIDGE CONSTRUCTION, AGGREGATE BASE, PLANT MIXED BITUMINOUS PAVEMENT, EROSION CONTROL, TURF ESTABLISHMENT, AND APPURTENANT CONSTRUCTION

GEOGRAPHIC DESCRIPTION: ON CSAH 7 (280TH STREET and 660TH AVENUE)

LEGAL DESCRIPTION: IN SECTIONS 34, and 35—T104N—R16W and SECTION 2—T103N—R16W

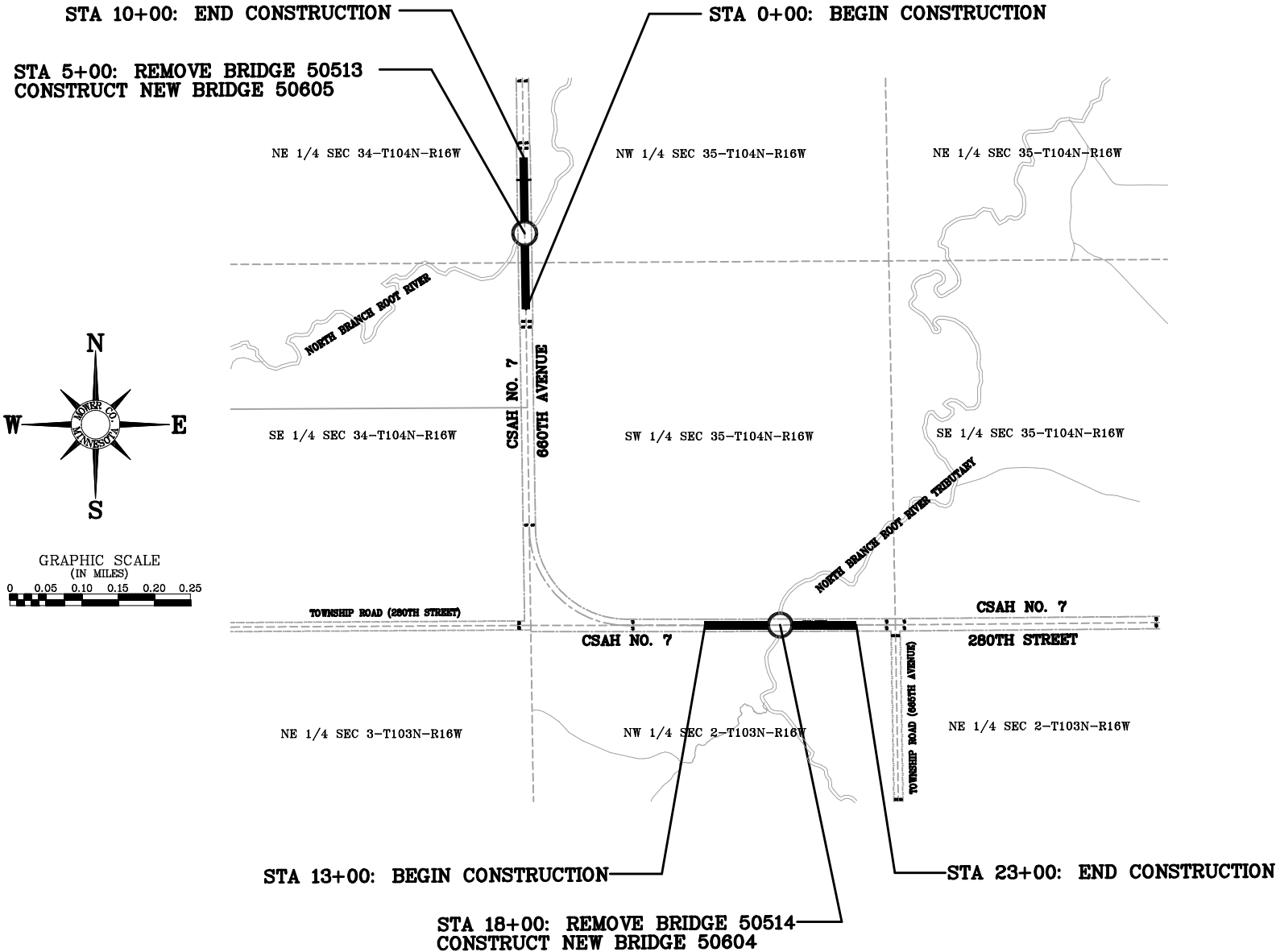
STATE PROJECT NO. SP 050-607-043

LEGEND

220+00	ALIGNMENT/CENTERLINE
---	EXISTING RIGHT OF WAY LINE
---	NEW RIGHT OF WAY LINE
---	PROPERTY LINE/LOT LINE
-x-x-x-	FENCE
==	CULVERT
-DT-->	DRAIN TILE LINE
FM	FORCE MAIN
FO	FIBER OPTIC CABLE
G	GAS LINE
OE	OVERHEAD POWER
S	SANITARY SEWER
ST	STORM SEWER
UE	UNDERGROUND POWER
UT	UNDERGROUND TELEPHONE
W	WATER LINE
+	BENCHMARK OR BORING
*	CONIFER TREE
o	DECIDUOUS TREE
~	HEDGE
~	TREE LINE
o	HYDRANT
o	VALVE
o	CURB STOP
o	POWER POLE
o	LIGHT POLE
■	UTILITY PEDESTAL/CABINET
o	MANHOLE
o	CATCH BASIN

BRIDGE 50513:  
GROSS LENGTH: 1000.00 FEET 0.189 MILES  
BRIDGE LENGTH: 100.00 FEET 0.019 MILES  
EXCEPTIONS: 0.00 FEET 0.000 MILES  
NET LENGTH: 1000.00 FEET 0.189 MILES

BRIDGE 50514:  
GROSS LENGTH: 1000.00 FEET 0.189 MILES  
BRIDGE LENGTH: 100.00 FEET 0.019 MILES  
EXCEPTIONS: 0.00 FEET 0.000 MILES  
NET LENGTH: 1000.00 FEET 0.189 MILES



UTILITIES

COMMUNICATIONS

Frontier Communications  
Phone (800) 778-9140

ELECTRIC

Freeborn Mower Electric Coop  
Phone (800) 778-9140

THE SUBSURFACE UTILITY INFORMATION IN THIS PLAN IS UTILITY QUALITY LEVEL D. THIS UTILITY QUALITY LEVEL WAS DETERMINED ACCORDING TO THE GUIDELINES OF CI/ASCE 38-02, ENTITLED "STANDARD GUIDELINES FOR THE COLLECTION AND DEPICTION OF EXISTING SUBSURFACE UTILITY DATA."

ALL TRAFFIC CONTROL DEVICES SHALL CONFORM TO THE LATEST MMUTCD, INCLUDING THE LATEST FIELD MANUAL FOR TEMPORARY TRAFFIC CONTROL ZONE LAYOUTS.

MINN. PROJ. NO. xxxx xxxx(xxx)

GOVERNING SPECIFICATIONS

THE 2020 EDITION OF THE MINNESOTA DEPARTMENT OF TRANSPORTATION "STANDARD SPECIFICATIONS FOR CONSTRUCTION", SHALL GOVERN.

INDEX TO SHEETS

SHEET NO.	DESCRIPTION
1	TITLE SHEET
2	ESTIMATED QUANTITIES and NOTES
3	STANDARD PLATES/PLANS and TABULATIONS
4	TYPICAL SECTIONS and DETAILS
5	DETAILS
x-x	PLAN PROFILE-EXISTING CONDITIONS and REMOVALS
x-xx	PLAN PROFILE-PROPOSED CONSTRUCTION
xx-xx	PLANS-BRIDGE 50604
xx-xx	PLANS-BRIDGE 50605
xx-xx	STANDARD OPERATIVE
xx-xx	STANDARD DETAILS
xx-xx	TYPICAL SECTIONS and EARTHWORK SUMMARY
xx-xx	EARTHWORK SUMMARY
xx-xx	MnDOT STANDARD PLANS (SP1-SP14)

THIS PLAN CONTAINS xx SHEETS

DESIGN DESIGNATION

STA 0+00 TO STA 10+00 (CSAH 7-BRIDGE 50513) [8820.9920]

ADT [2023] = 225

ADT [2025 PROJ.] = 225

ADT [2045 PROJ.] = 225

HCA DT [2045 PROJ.] = 23 [10%]

REQUIRED CLEAR ZONE = 15' (27' FROM CL)

STA 13+00 TO STA 23+00 (CSAH 7-BRIDGE 50514) [8820.9920]

ADT [2023] = 225

ADT [2025 PROJ.] = 225

ADT [2045 PROJ.] = 225

HCA DT [2045 PROJ.] = 23 [10%]

REQUIRED CLEAR ZONE = 15' (27' FROM CL)

FUNCTIONAL CLASSIFICATION: MAJOR COLLECTOR

10 TON DESIGN (ESALS = 107,000; R = 10)

DESIGN SPEED = 45 MPH (STOPPING SIGHT DISTANCE)

HEIGHT OF EYE = 3.5 FEET; HEIGHT OF OBJECT = 2.0 FEET

NUMBER OF TRAFFIC LANES: 2

LANE WIDTH = 12 FEET; SHOULDER WIDTH = 4 FEET

I HEREBY CERTIFY THAT THIS PLAN 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.

MICHAL J. HANSON  
MOWER COUNTY ENGINEER/PUBLIC WORKS DIRECTOR

DATE: LICENSE NO. 14432

DISTRICT STATE AID ENGINEER: REVIEWED FOR COMPLIANCE WITH STATE-AID RULES/POLICY

STATE AID ENGINEER: APPROVED FOR STATE AID AND FEDERAL AID FUNDING

SP 050-607-043

SHEET 1 OF xx SHEETS

SE 1/4 SECTION 34-T104N-R16W

NE 1/4 SECTION 34-T104N-R16W

**STA 0+00**  
**BEGIN SP 050-607-043**

**STA 5+00 CL**  
**REMOVE EXISTING BRIDGE 50513**  
**CONSTRUCT NEW BRIDGE 50605**

**STA 10+00**  
**END SP 050-607-043**

**EXISTING R/W (TYP)**

**BASIN #1**  
**WETLAND AREA=0.242 AC.**

**BASIN #2**  
**WETLAND AREA > 1 AC.**

**EXISTING R/W (TYP)**

CSAH 7

660TH AVENUE

**BM344**

**BASIN #3**  
**WETLAND AREA=0.121 AC.**

**BASIN #4**  
**WETLAND AREA=0.044 AC.**

**BASIN #5**  
**WETLAND AREA=0.033 AC.**

**BASIN #6**  
**WETLAND AREA=0.055 AC.**

SW 1/4 SECTION 35-T104N-R16W

NW 1/4 SECTION 35-T104N-R16W

### Horizontal Scale



0 100

**W-1 (BRIDGE 50513)**



SCLIP 1

NORTH BRANCH ROOT RIVER

SE 1/4 SECTION 34-T104N-R16W

NE 1/4 SECTION 34-T104N-R16W

STA 0+00  
BEGIN SP 050-607-043

Ditch 1

BASIN #1  
WETLAND AREA=0.242 AC.  
ENCROACHMENT=0.026 AC.BASIN #2  
WETLAND AREA > 1 AC.  
ENCROACHMENT=0.021 AC.STA 10+00  
END SP 050-607-043

EXISTING R/W (TYP)

T2-2

CSAH 7

BM344

BASIN #3  
WETLAND AREA=0.121 AC.  
ENCROACHMENT=0.027 AC.

T1-1

BASIN #4  
WETLAND AREA=0.044 AC.  
ENCROACHMENT=0.030 AC.

T4-1

T4-2

BASIN #5  
WETLAND AREA=0.033 AC.  
ENCROACHMENT=0.029 AC.

T3-2

BM345

T3-1

EXISTING R/W (TYP)

660TH AVENUE

T4-3

BASIN #6  
WETLAND AREA=0.055 AC.Corps AJD review  
area is limited to  
Wet Ditch within  
the blue polygons

SW 1/4 SECTION 35-T104N-R16W

NW 1/4 SECTION 35-T104N-R16W

Horizontal Scale

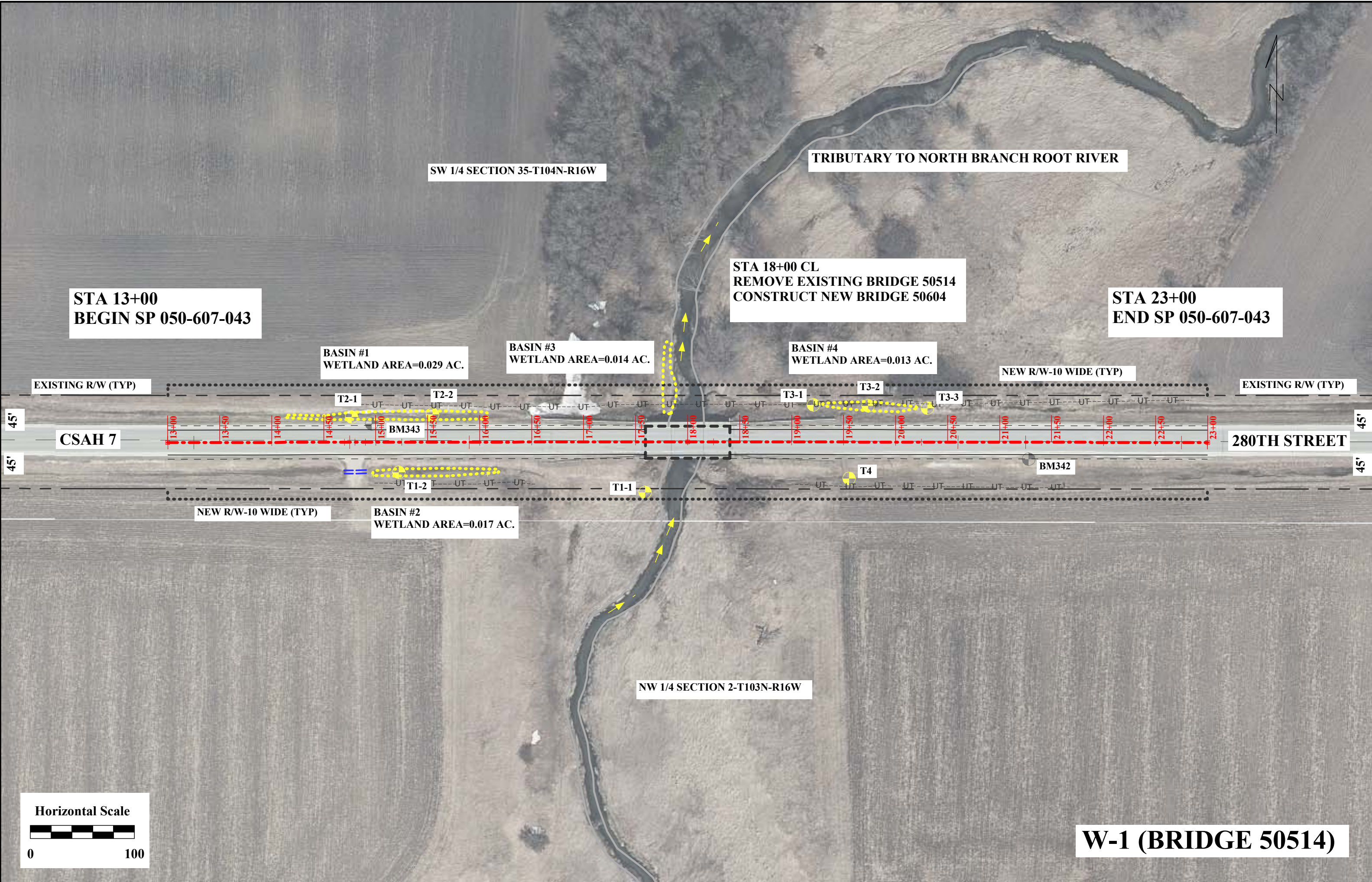


0

100

E-1 (BRIDGE 50513)







SCLIP 2

SW 1/4 SECTION 35-T104N-R16W

TRIBUTARY TO NORTH BRANCH ROOT RIVER

STA 18+00 CL  
REMOVE EXISTING BRIDGE 50514  
CONSTRUCT NEW BRIDGE 50604

STA 23+00  
END SP 050-607-043

STA 13+00  
BEGIN SP 050-607-043

BASIN #1  
WETLAND AREA=0.029 AC.  
ENCROACHMENT=0.017 AC.

BASIN #3  
WETLAND AREA=0.014 AC.  
ENCROACHMENT=0.004 AC.

BASIN #4  
WETLAND AREA=0.013 AC.  
ENCROACHMENT=0.013 AC.

BASIN #2  
WETLAND AREA=0.017 AC.  
ENCROACHMENT=0.012 AC.

Corps AJD review  
area is limited to  
Wet Ditch within  
the blue polygons

EXISTING R/W (TYP)

NEW R/W-10 WIDE (TYP)

EXISTING R/W (TYP)

CSAH 7

280TH STREET

NEW R/W-10 WIDE (TYP)

Horizontal Scale



0 100

E-1 (BRIDGE 50514)



<b>U.S. Army Corps of Engineers (USACE)</b> <b>NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS</b> <b>AND REQUEST FOR APPEAL</b> For use of this form, see Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act of 1899, and Section 103 of the Marine Protection, Research, and Sanctuaries Act; the proponent agency is CECW-COR.		<i>Form Approved –</i> <b>OMB No. 0710-0003</b> <i>Expires 2027-10-31</i>
<b>DATA REQUIRED BY THE PRIVACY ACT OF 1974</b>		
<b>Authority</b>	The authorities for requesting this information are Sections 9, 10, 13, and 14, Rivers and Harbors Act of March 3, 1899; Section 404, Clean Water Act; and Section 103 Marine Protection Research and Sanctuaries Act of 1972.	
<b>Principal Purpose</b>	This information serves as notification to affected parties regarding the USACE administrative appeal options and process, as well as to facilitate requests for appeal of USACE decisions with which they disagree.	
<b>Routine Uses</b>	Routine uses will include: (a) To serve as notification to affected parties of the Corps administrative appeal options and process and to facilitate requests for appeal of Corps decisions with which they disagree. (b) Records may be referred to the Department of Justice for possible criminal prosecution. (c) Records may be referred to other Federal, State, and local agencies for evaluation and enforcement purposes.	
<b>Disclosure</b>	Disclosure of this information is voluntary on your part. However, failure of individual to provide requested information could result in inability to determine all pertinent information regarding a Department of the Army permit matter.	
<b>The Agency Disclosure Notice (ADN)</b>		
The Public reporting burden for this collection of information, 0710-0003, is estimated to average 1 hour per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at <a href="mailto:whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil">whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil</a> . Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.		
<b>PURPOSE:</b> This form is used to facilitate the initiation of the administrative appeals process. The appeals process allows an affected party to pursue an administrative appeal of certain Corps of Engineers decisions with which they disagree.		
Upon release, this form will also be available on the Corps website <a href="https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/">https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/</a>		
Applicant: Mower County Highway Dept c/o: Michal Hanson	File Number: MVP-2025-00353-TJH	Date: 6/18/2025
Documents Attached ( <i>select all that apply</i> ):		Form Reference Section:
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL WITHOUT PREJUDICE	C
<input type="checkbox"/>	PERMIT DENIAL WITH PREJUDICE	D
<input checked="" type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	E
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	F
<b>SECTION I</b>		
The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <a href="https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/appeals/">https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/appeals/</a> or Corps regulations at 33 CFR Part 331.		
A: INITIAL PROFFERED PERMIT: You may accept or object to the permit		
<ul style="list-style-type: none"> <li>• <b>ACCEPT:</b> 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.</li> <li>• <b>OBJECT:</b> 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.</li> </ul>		

**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:
Name: Tom Hayek	Name: Brian Oberlies, Regulatory Appeals Review Officer
Street Address, City, State: 332 Minnesota Street St. Paul, MN 55101	Street Address, City, State: 1400 Walnut Street Vicksburg, MN 39180
Phone: 651-290-5344	Phone: 601-634-5820
Email: tom.j.hayek@usace.army.mil	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.

Email address of appellant and/or agent

Telephone number

Signature of appellant or agent

Date