



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

MVP

31 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),¹ [MVP-2025-00441-ARC 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.² 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.³

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),⁴ the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

1. SUMMARY OF CONCLUSIONS.

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 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ 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-2025-00441-ARC](#)

- 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 EPP-1, non-jurisdictional \(a\)\(5\) 0.70-acre](#)
 - ii. [Wetland EPP-2, non-jurisdictional \(a\)\(5\) 4.34-acres](#)
 - iii. [Wetland EPP-3, non-jurisdictional \(a\)\(5\) 1.01 acres](#)
 - iv. [Wetland EPP-4, non-jurisdictional \(a\)\(5\) 0.64-acre](#)
 - v. [Wetland EPP-7, non-jurisdictional \(a\)\(5\) 1.23-acres](#)
 - vi. [Wetland EPP-8, non-jurisdictional \(a\)\(5\) 10.2 acres](#)
 - vii. [Wetland EPP-10, non-jurisdictional \(a\)\(5\) 0.02-acre](#)
 - viii. [Wetland PR-11, non-jurisdictional \(a\)\(5\) 0.02-acre](#)
 - ix. [Wetland EPP-12, non-jurisdictional \(a\)\(5\) 0.10-acre](#)
 - x. [Wetland EPP-13, non-jurisdictional \(a\)\(5\) 0.02-acre](#)
 - xi. [Wetland EPP-14, non-jurisdictional \(a\)\(5\) 0.04-acre](#)
 - xii. [Wetland SM-1, non-jurisdictional \(a\)\(5\) 1.54-acres](#)
 - xiii. [Wetland SM-2, non-jurisdictional \(a\)\(5\) 0.53-acre](#)
 - xiv. [Wetland SM-3, non-jurisdictional \(a\)\(5\) 0.50-acre](#)
 - xv. [Wetland PR-01, non-jurisdictional \(a\)\(5\) 0.54-acre](#)
 - xvi. [Wetland PR-02, non-jurisdictional \(a\)\(5\) 0.14-acre](#)
 - xvii. [Wetland PR-03, non-jurisdictional \(a\)\(5\) 0.18-acre](#)
 - xviii. [Wetland PR-04, non-jurisdictional \(a\)\(5\) 0.08 acres](#)

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SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [MVP-2025-00441-ARC](#)

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 61954 (September 8, 2023)
 - c. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)
3. REVIEW AREA. The review area is approximately 125 acres in size on the south side of Minntac’s active East mine pit in the Parkville area. The review area is identified by the red polygon on the attached Figure 5. The approximate center of the review area is located at 47.53338 N, -92.58244 W near the city of Mountain Iron, in St. Louis County, Minnesota.
4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. [\[N/A\]](#)⁵
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. [N/A](#)
6. SECTION 10 JURISDICTIONAL WATERS⁶: 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 10.⁷ [\[N/A\]](#)

⁵ 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.

⁶ 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.

⁷ 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.

MVP

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [MVP-2025-00441-ARC](#)

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](#)

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).⁸

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.,

⁸ 88 FR 3004 (January 18, 2023)

MVP

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [MVP-2025-00441-ARC](#)

tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

There are 18 wetlands that are not jurisdictional under the 2023 Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 Final Rule, see individual features list in Section 1.a. above. These wetlands are not TNWs, territorial seas, or interstate waters and therefore are not (a)(1) waters. The wetland delineations, topographical maps, Google Earth, and the National Regulatory Viewer indicate that these wetlands do not physically abut a relatively permanent paragraph (a)(2) impoundment or a jurisdictional (a)(3) tributary and are not separated from a jurisdictional water by a natural berm, bank, dune, or similar natural landform. All wetlands are surrounded by upland with no natural or constructed outlet. The site was walked multiple times by the Wetland Conservation Act (WCA) Technical Evaluation Panel (TEP) and the U.S. Army Corps Project Manager, and the 18 subject wetlands were visibly surrounded by uplands with no continuous surface connection. There are no ditches, swales, pipes, or culverts that connect these wetlands to downstream jurisdictional waters. These wetlands are non-tidal wetlands that 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 (a)(4) adjacent wetlands; therefore, these wetlands 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. Field visits conducted September 13, 2024, and May 29, 2025. Office evaluation conducted October 2, 2025.
 - b. Wetland Delineations, Barr Engineering Company, October 2024, August 2025.
 - c. National Regulatory Viewer Lidar, Digital Elevation Model, and Soils data.
 - d. [Name of data source, date of resource or date accessed.]
10. OTHER SUPPORTING INFORMATION. These 18 wetlands have been heavily influenced from previous mining activities and residential development activities within the previous Parkville neighborhood. These wetlands have been walked multiple times by the WCA TEP and the Army Corps Project Manager and all 18 wetlands were found to be surrounded by uplands with no outlets and no continuous surface connection to a relatively permanent jurisdictional water.

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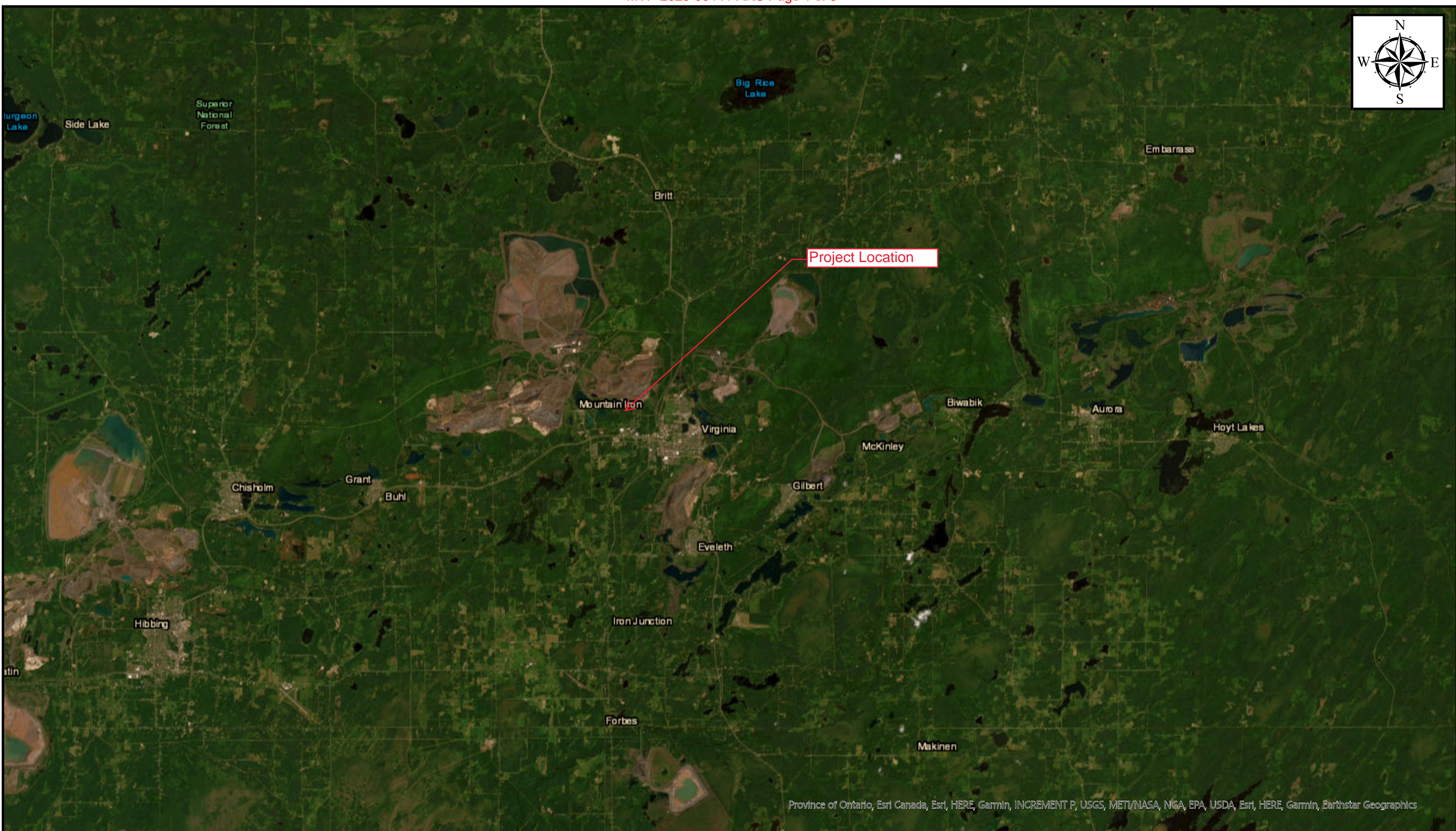
SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [MVP-2025-00441-ARC](#)

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.

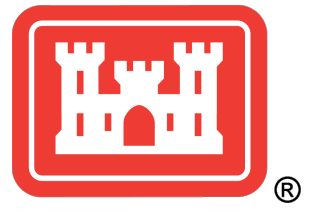
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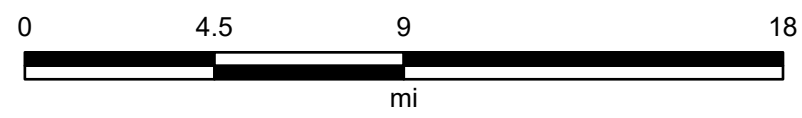
¹ 88 FR 3004 (January 18, 2023)



Province of Ontario, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, METI/NASA, NGA, EPA, USDA, Esri, HERE, Garmin, Earthstar Geographics



MVP-2025-00441-ARC

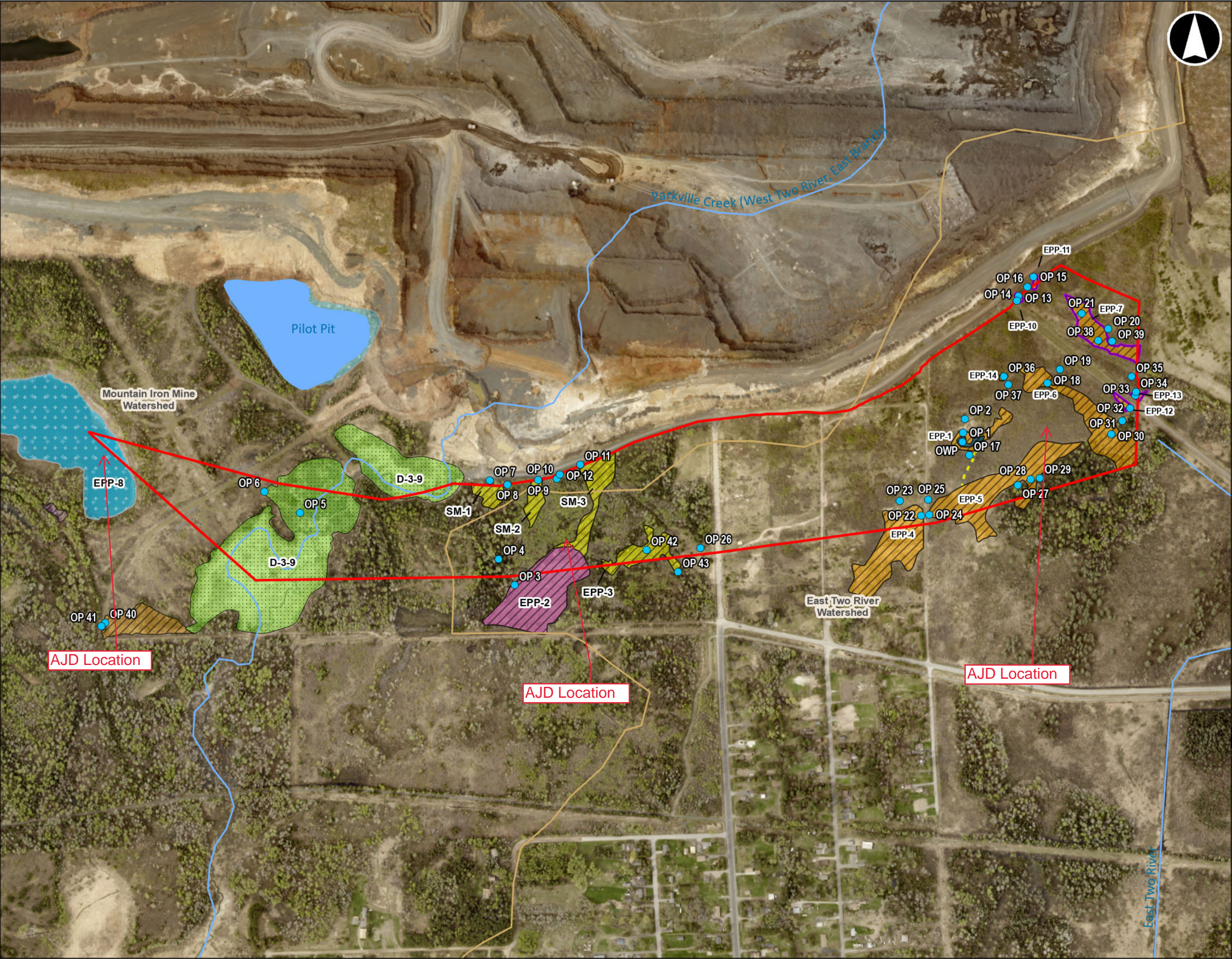


Map Center: 92.509914°W 47.527384°N

Map Created by: USACE

Date: 10/2/2025

Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere
Projection: Mercator Auxiliary Sphere



0 275 550 825 1100
Feet

Scale 1:6,900
1 inch equals 575 feet

Legend

- Parkville Delineation Boundary
- OP Points
- Ephemeral Discharge

Waterbodies

- Waterbody Units - Streams (1)
- Waterbody Units - Lakes (1)

Watersheds

- Minor Watershed

HGM Wetland Type

- Depressional Wetland
- Mine Pit
- Riverine

Circular 39 Wetland Type

- Incidental Shrub Swamp
- Sedge Meadow
- Shallow Marsh
- Shallow Open Water and Lakes
- Shrub Swamp
- Bog

Wetland Delineation Map

Parkville Wetland Delineation

United States Steel Corporation, Minntac
Mountain Iron, MN
St. Louis County

Figure 5

Map Center Coordinates 15T 531255 5264584

Spatial Reference NAD 1983 UTM Zone 15N

Project Number 22772

Date Created 8/28/2025

Author K Berry, GIS Analyst, NTS

Data Source

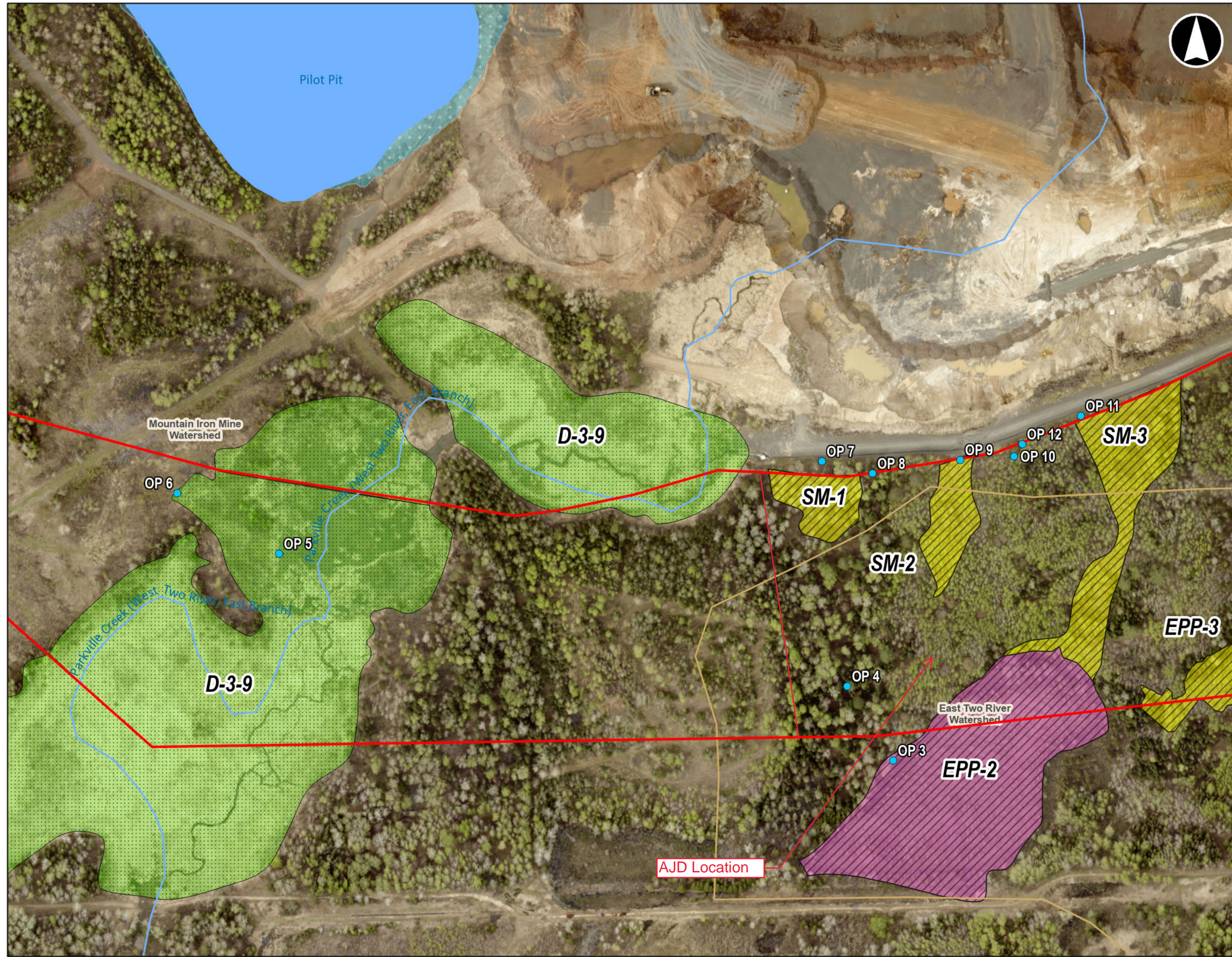
MN-DOT Route Centerlines - State of Minnesota GeoCommons - <https://gisdata.mn.gov/dataset/trans-roads-centerlines>

2023 Aerial Imagery - St. Louis County, MN (WMS) - <https://www.stlouiscountymn.gov/departments-a-z/planning-development/enterprise-gis/web-services>

Disclaimer

Map and/or data not appropriate for use in establishment of property boundaries, in property descriptions, or for any legal purposes; not appropriate for navigation; not for use by third parties.





0 100 200 300 400
Feet

Scale 1:2,400
1 inch equals 200 feet

Legend

Parkville Delineation Boundary

● OP Points

HGM Wetland Type

Depressional Wetland

Mine Pit

Riverine

Circular 39 Wetland Type

Sedge Meadow

Shallow Marsh

Shallow Open Water and Lakes

Bog

Waterbodies

— Waterbody Units - Streams (1)

Waterbody Units - Lakes (1)

Watersheds

Minor Watershed

Western Wetland Delineation Map

Parkville Wetland Delineation
United States Steel Corporation, Minntac
Mountain Iron, MN
St. Louis County

Figure 5a

Map Center Coordinates 15T 530877 5264570

Spatial Reference NAD 1983 UTM Zone 15N

Project Number 22772

Date Created 8/28/2025

Author K Berry, GIS Analyst, NTS

Data Source

MN-DOT Route Centerlines - State of Minnesota GeoCommons - <https://gisdata.mn.gov/dataset/trans-roads-centerlines>

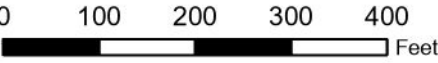
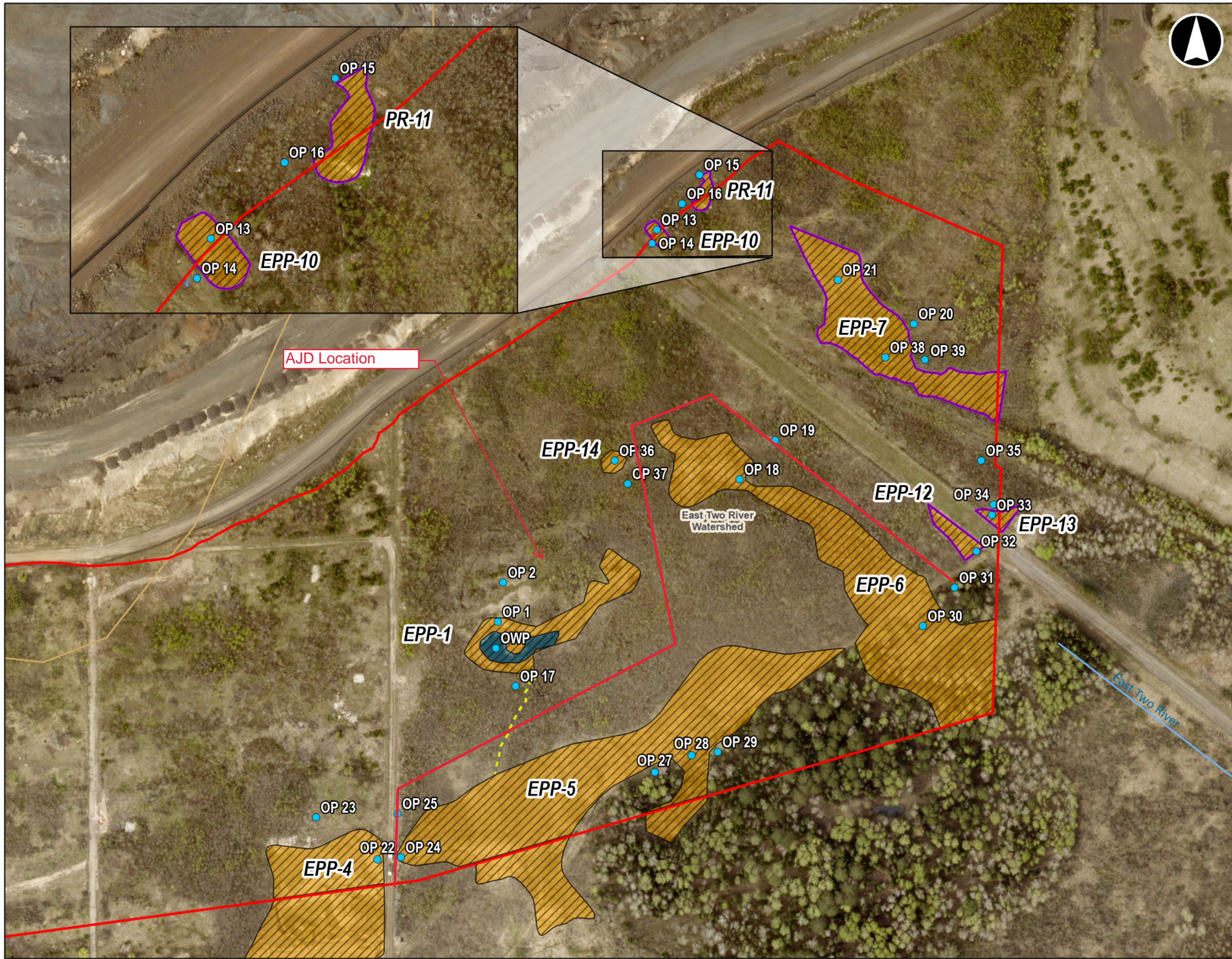
Stream Classification - MPCA Impaired Waters (WMS) - https://pca-gis02.pca.state.mn.us/arcgis/rest/services/maps/pca_wuV2/MapServer

2023 Aerial Imagery - St. Louis County, MN (WMS) - <https://www.stlouiscountymn.gov/departments-a-z/planning-development/enterprise-gis/web-services>

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Scale 1:2,400
1 inch equals 200 feet

Legend

- Parkville Delineation Boundary
- OP Points
- Ephemeral Discharge

HGM Wetland Type

- Depressional Wetland

Circular 39 Wetland Type

- Incidental Shrub Swamp
- Shallow Open Water and Lakes
- Shrub Swamp

Waterbodies

- Waterbody Units - Streams (1)

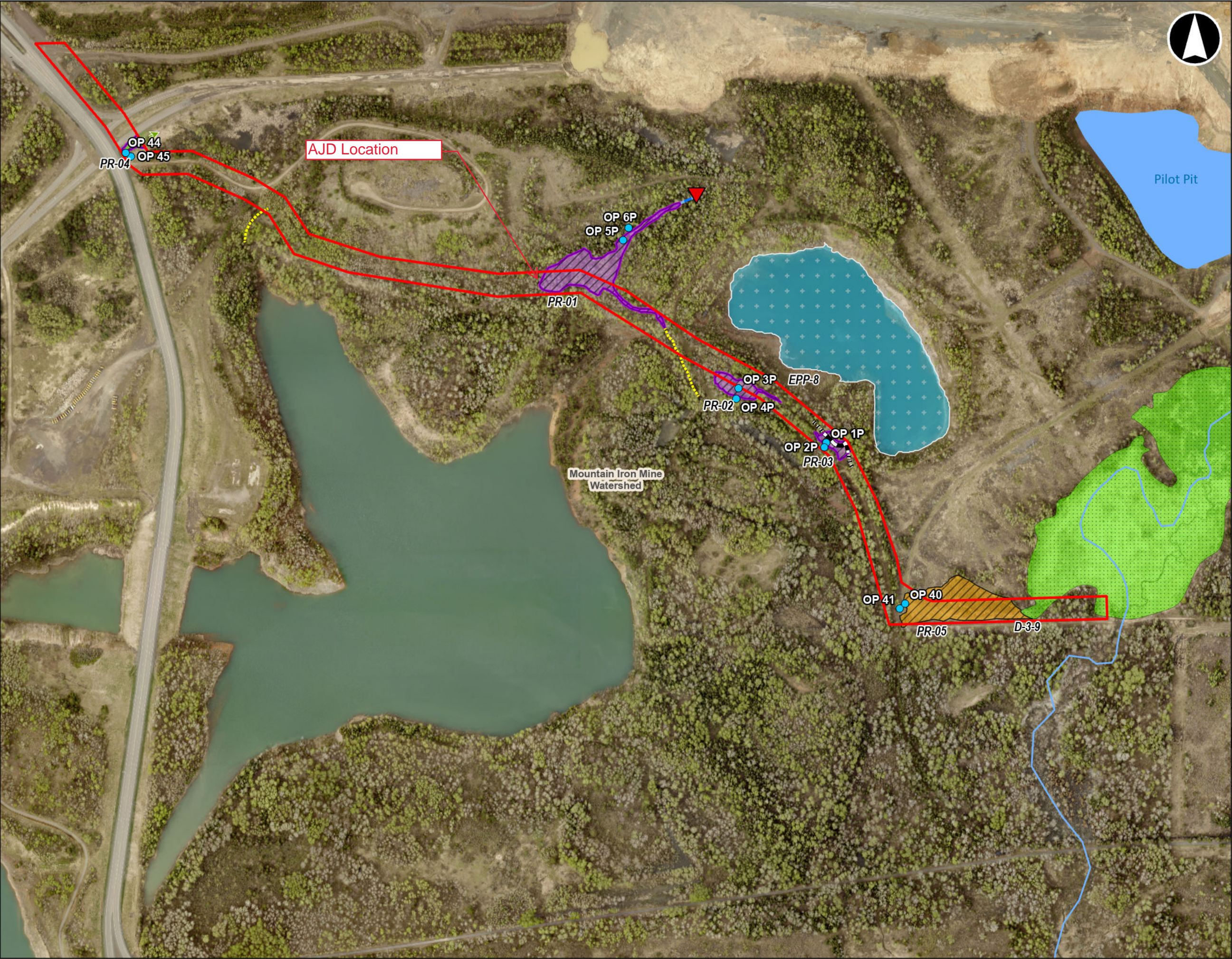
Watersheds

- Minor Watershed

Eastern Wetland Delineation Map
Parkville Wetland Delineation
United States Steel Corporation, Minntac
Mountain Iron, MN
St. Louis County

Figure 5b

Map Center Coordinates 15T 532003 5264769	
Spatial Reference NAD 1983 UTM Zone 15N	
Project Number 22772	Date Created 8/28/2025
Author K Berry, GIS Analyst, NTS	
Data Source MN-DOT Route Centerlines - State of Minnesota GeoCommons - https://gisdata.mn.gov/dataset/trans-roads-centerlines Stream Classification - MPCA Impaired Waters (WMS) - https://pca-gis02.pca.state.mn.us/arcgis/rest/services/maps/pca_wuV2/MapServer 2023 Aerial Imagery - St. Louis County, MN (WMS) - https://www.stlouiscountymn.gov/departments-a-z/planning-development/enterprise-gis/web-services	
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0200400600800
Feet

Scale 1:4,800
1 inch equals 400 feet

Legend

Pipeline Corridor Delineation Boundary

OP Points

Culvert

Approximate Fence

Ephemeral Stream Stream

Culvert Discharge Stream

Wetland Continuation Outside Boundary

HGM Wetland Type

Depressional Wetland

Mine Pit

Riverine

Circular 39 Wetland Type

Incidental Forested Wetland

Incidental Shallow Marsh

Shallow Marsh

Shrub Swamp

Shallow Open Water and Lakes

Waterbodies

Waterbody Units - Streams (1)

Waterbody Units - Lakes (1)

Watersheds

Minor Watershed

Wetland Delineation Map

Pipeline Re-Route Wetland Delineation

United States Steel Corporation, Minntac

Mountain Iron, MN

St. Louis County

Figure 5c

Map Center Coordinates 15T 529887 5264475

Spatial Reference NAD 1983 UTM Zone 15N

Project Number 22772

Date Created 8/28/2025

Author K Berry, GIS Analyst, NTS

Data Source

MN-DOT Route Centerlines - State of Minnesota GeoCommons - <https://gisdata.mn.gov/dataset/trans-roads-centerlines>

Stream Classification - MPCA Impaired Waters (WMS) - https://pca-gis02.pca.state.mn.us/arcgis/rest/services/maps/pca_wuV2/MapServer

2023 Aerial Imagery - St. Louis County, MN (WMS) - <https://www.stlouiscountymn.gov/departments-a-z/planning-development/enterprise-gis/web-services>

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