



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

MVP

18 Sept 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-2025-00812 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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- 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 A \(0.09 acre\) non-jurisdictional.](#)
 - ii. [Wetland B \(0.06 acre\) 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 resource is located within a 0.15-acre review area identified by the red polygon seen on the figure labeled MVP-2025-00812-DWW Drawing 2 of 3. The review area is located near Sartell, Stearns County, Minnesota. Center coordinates are 45.61587°, -94.21145°. The review area is located in Section 21, Township 125 North, Range 28 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](#)

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

[N/A](#)

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6. SECTION 10 JURISDICTIONAL WATERS⁵: 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 10.⁶

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

⁵ 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.

⁶ 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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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).⁷

[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).

[The subject Wetland A and B are depressional areas that are non-jurisdictional. The Wetlands can be seen on the figure labeled MVP-2025-00812-DWW Drawing 2 of 3.](#)

[The Wetlands are not a Traditional Navigable Water \(TNW\), territorial sea, or interstate water, therefore is not an \(a\)\(1\) water.](#)

[The Wetlands do not physically abut a relatively permanent \(a\)\(2\) impoundment or jurisdictional \(a\)\(3\) tributary. The closest tributary, Watab River, is located approximately 0.08 miles north of the review area. The Wetlands do not have a continuous surface connection \(CSC\) to Watab River. The Wetlands are non-tidal wetland that does not have a CSC to a relatively permanent jurisdictional water, and as such does not meet the definition of adjacent and cannot be evaluated as an \(a\)\(4\) adjacent wetland; therefore, 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. [Aerial Imagery: Google Earth 2011, 2013, 2016, 2017, and 2025.](#)

⁷ 88 FR 3004 (January 18, 2023)

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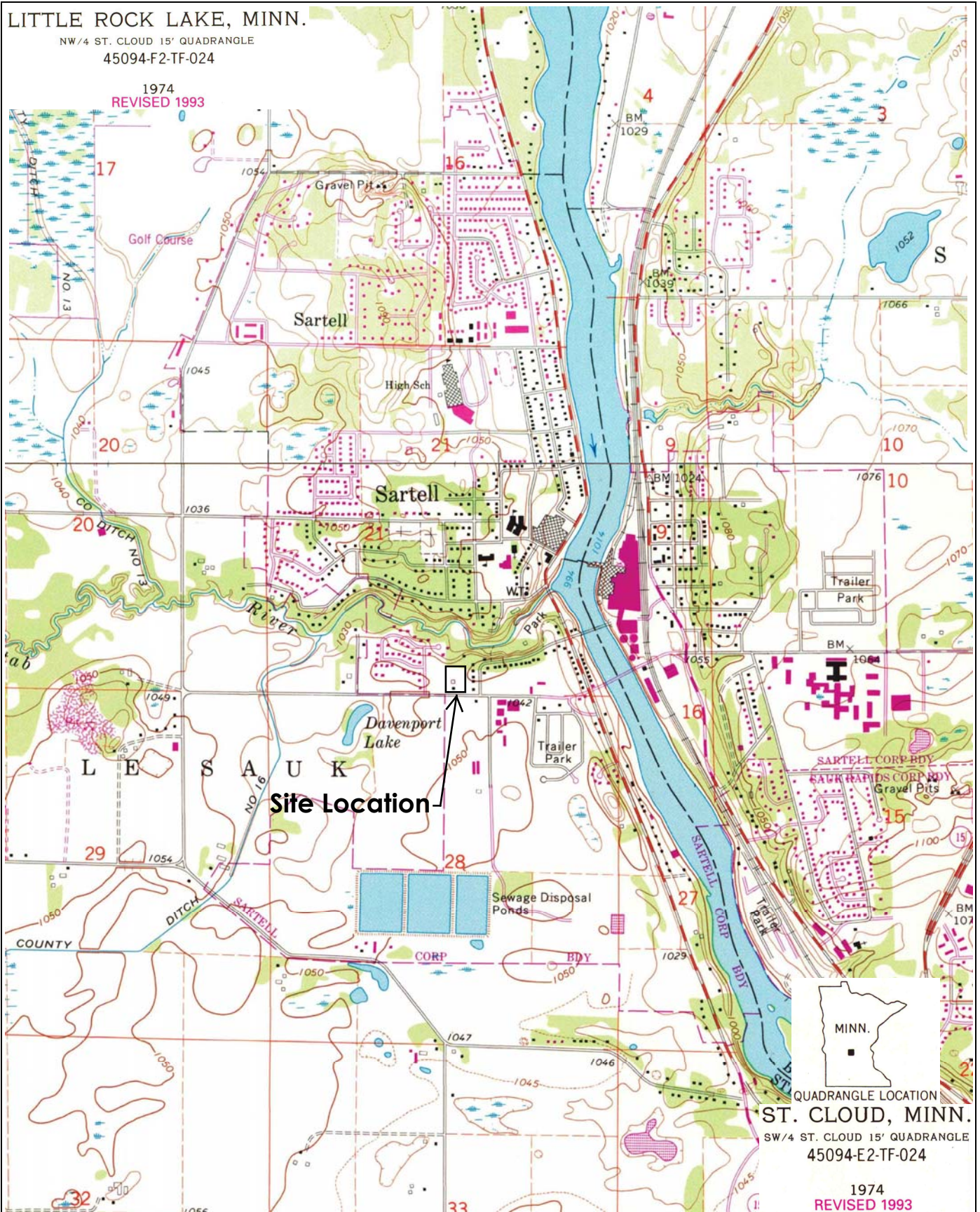
SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [MVP-2025-00812-DWW](#)

b. [FSA slides: 1980, 1981, 1988, 1991](#)

c. [LiDAR: MNDNR Hillshade – 2016.](#)

10. OTHER SUPPORTING INFORMATION.

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.

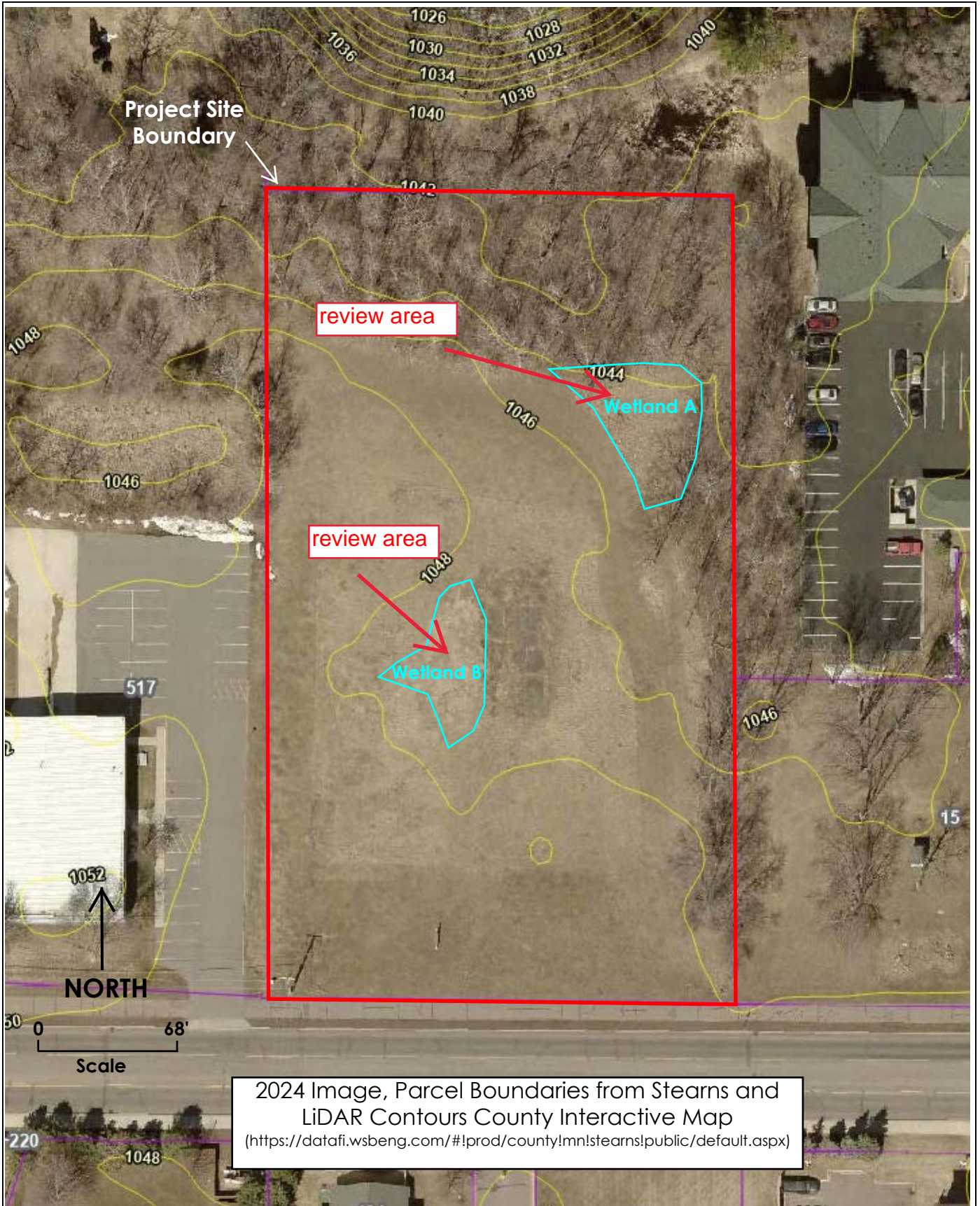


GC Granite City Environmental
 320-253-5411 • clint@granitecityenv.com
 P.O. Box 1382, St. Cloud, MN 56302

Exemption Confirmation Application
 Stearns Co. Parcel 92.57117.0000
 Second Street South
 Sartell, Minnesota

Figure 1
Site Locator Map

Date	Job No.	Scale
7/11/2025	25007	1:24,000

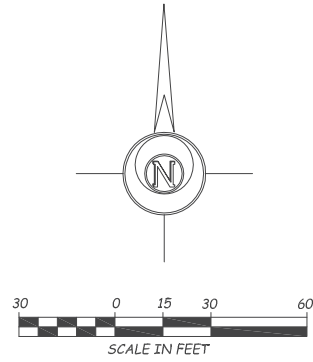


LEGAL DESCRIPTION

(Per Doc. No. 1485312)
The West 231.00 feet of Lot O of the Townsite of Sartell, according to the plat thereof on file and of record in the Office of the County Recorder in and for Stearns County, Minnesota.

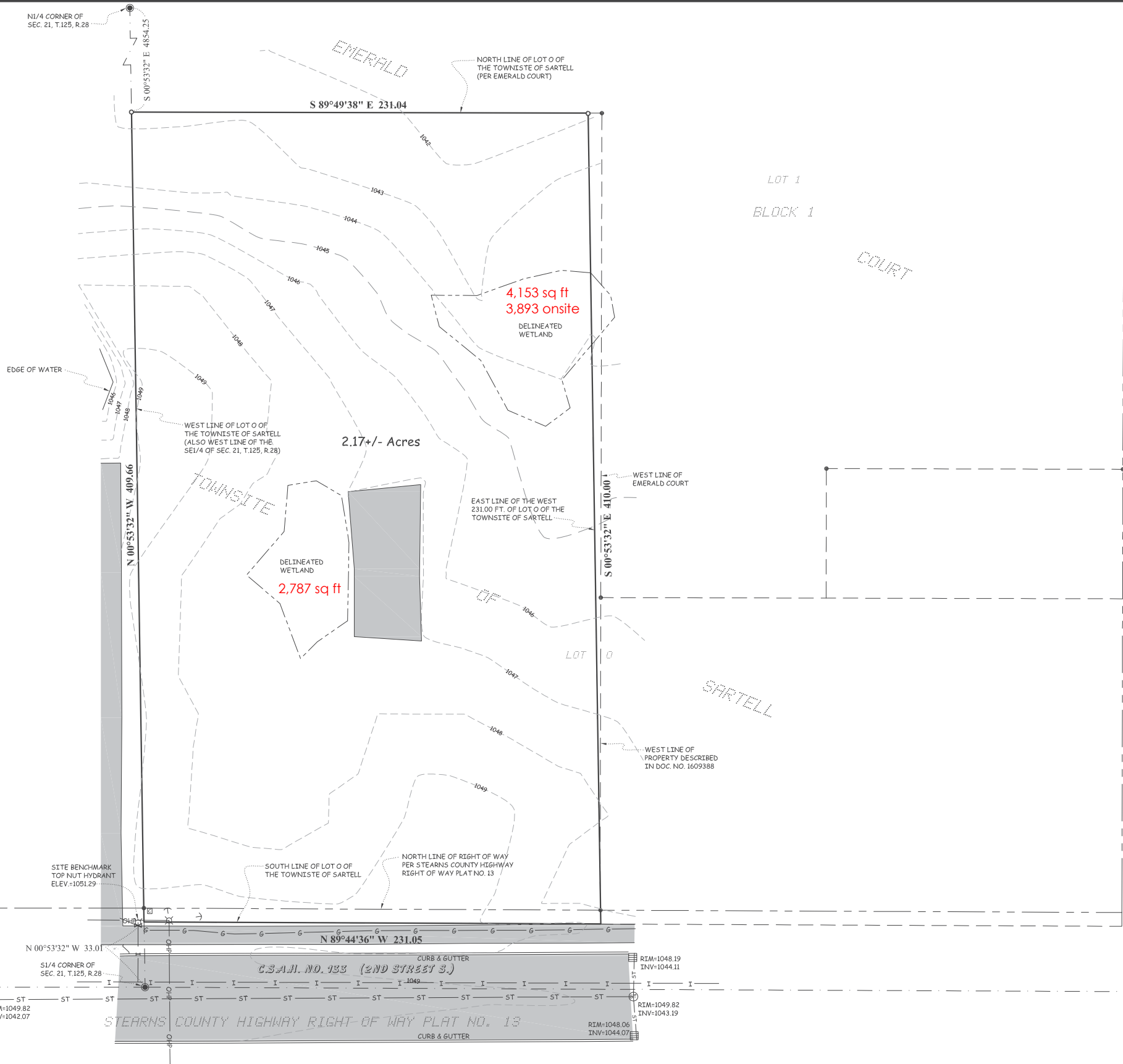
SURVEYOR'S NOTES

- No title work was supplied as part of this survey. The legal description shown is taken from the last deed of record on the subject property. There may be easements that touch subject property not shown hereon.
- The utilities shown hereon were located using the Gopher State One-Call system and verified in the field where possible. Private utility locations, such as underground sprinklers, underground service lines, ect may not have been located. O'Malley & Kron cannot guarantee that all utility companies responded or the accuracy or completeness of the locates. Prior to digging, contact Gopher One at 1-800-252-1166 and refer to ticket number 251150373.
- Wetlands shown hereon were delineated by Granite City Environmental on 5-22-25.



Legend

- INDICATES IRON MONUMENT PLACED
- INDICATES IRON MONUMENT FOUND
- INDICATES STEARNS COUNTY CAST IRON MONUMENT
- ST— INDICATES STORM SEWER LINE
- SN— INDICATES SANITARY SEWER LINE
- I— INDICATES UNDERGROUND WATER
- G— INDICATES UNDERGROUND GAS
- OHP— INDICATES OVERHEAD POWER
- ⊕ INDICATES STORM MANHOLE
- ⊙ INDICATES SANITARY MANHOLE
- ▭ INDICATES CATCH BASIN
- ∇ INDICATES WATER VALVE
- ⊕ INDICATES HYDRANT
- ⊗ INDICATES POWER POLE
- ↓ INDICATES GUY WIRE
- ⊞ INDICATES CABLE PEDESTAL
- INDICATES BITUMINOUS SURFACE
- ▨ INDICATES CONCRETE SURFACE



RIM=1049.88
INV=1042.08
 RIM=1048.87
INV=1042.97
 4TH AVENUE S.

CERTIFICATE OF SURVEY PREPARED FOR:
MILLER PROPERTIES & INVESTMENTS
 JOB NO: 2025-218
 FILE NAME: 2025-218.DWG
 LOCATION: 21-125-28

PIPE RUNS EAST, WEST & NORTH. NO STRUCTURE TO THE EAST COULD BE LOCATED.
RIM=1050.30
INV=1035.76

NOTE: THIS SURVEY IS INTENDED ONLY FOR THE BENEFIT OF THE PARTY TO WHOM IT WAS PREPARED FOR AND SHOULD NOT BE RELIED UPON BY ANY OTHER PARTY OR FOR ANY OTHER PURPOSE. UNAUTHORIZED REPRODUCTION OF THIS DOCUMENT IS PROHIBITED.

1004 2nd ST. SE
WILLMAR, MN 56201
PH. 320-235-4012

340 CHAPEL HILL RD.
COLD SPRING, MN 56320
PH. 320-685-5905

1250 HWY 15 SOUTH
HUTCHINSON, MN 55350
PH. 320-234-1223

CERTIFICATE OF SURVEY PREPARED BY:
O'MALLEY & KRON
LAND SURVEYORS, INC.

I HEREBY CERTIFY THAT THIS SURVEY, PLAN OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.
 DANIEL M. SILVERS
 MINNESOTA REGISTRATION NO. 57949
 DATE: 05-28-2025

SHEET 1 OF 1