



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

MVP-RD

[26 January 2026]

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-2025-01272-TMS 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 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.

MVP

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [[MVP-2025-01272-TMS](#)]

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).

i. [[Wetland 1 \(4.44 acres\), non-jurisdictional](#)]

ii. [[Wet Ditch 1, 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)

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 is approximately 4.44 acres in size and is located at Lat. 46.865349, Long. -92.156462 in Duluth, St. Louis County, Minnesota. The review area is surrounded by Martin Road to the north, commercial properties to the east and south, and undeveloped forested area to the west. There are no other JDs associated with 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

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.

MVP

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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 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](#)]
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](#)]

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-2025-01272-TMS]

g. Additional Waters (a)(5): [N/A]

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

a. 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 and Wet Ditch 1 are not Traditionally Navigable Waters, territorial seas, or interstate waters and are therefore not (a)(1) waters. The wetland delineation report, AJD request, topographical maps, digital elevation modeling, Google Earth Pro, and Google Street Maps indicate that Wetland 1 and Wet Ditch 1 do not physically abut a relatively permanent (a)(2) impoundment or a jurisdictional (a)(3) tributary. Wetland 1 extends beyond the review area to the east and west and is surrounded by upland to the south and Martin Road to the north. Wet Ditch 1 drains from east to west across the northern end of the review area immediately adjacent to Martin Road. Wetland 1 is located in a relatively low area in a forested area that is primarily precipitation fed from surrounding uplands with no continuous surface connection to a jurisdictional water. Water from Wetland 1 generally drains to the north into Wet Ditch 1 via surficial sheet flow. There is no surface connection between Wetland 1 and Wet Ditch 1. The bottom elevation of Wet Ditch 1 appears to be lined with cattails and other herbaceous vegetation which indicates that the ditch does not experience relatively permanent flow, and therefore the ditch would not be considered a relatively permanent jurisdictional water. Wetland 1 is a non-tidal wetland that does not have a continuous surface connection 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, Wetland 1 and Wet Ditch 1 are not jurisdictional waters 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. [AJD Request, KLJ Engineering, dated October 29, 2025 and received December 5, 2025]

b. [Wetland Delineation Report, KLJ Engineering, dated October 2025 and received December 5, 2025]

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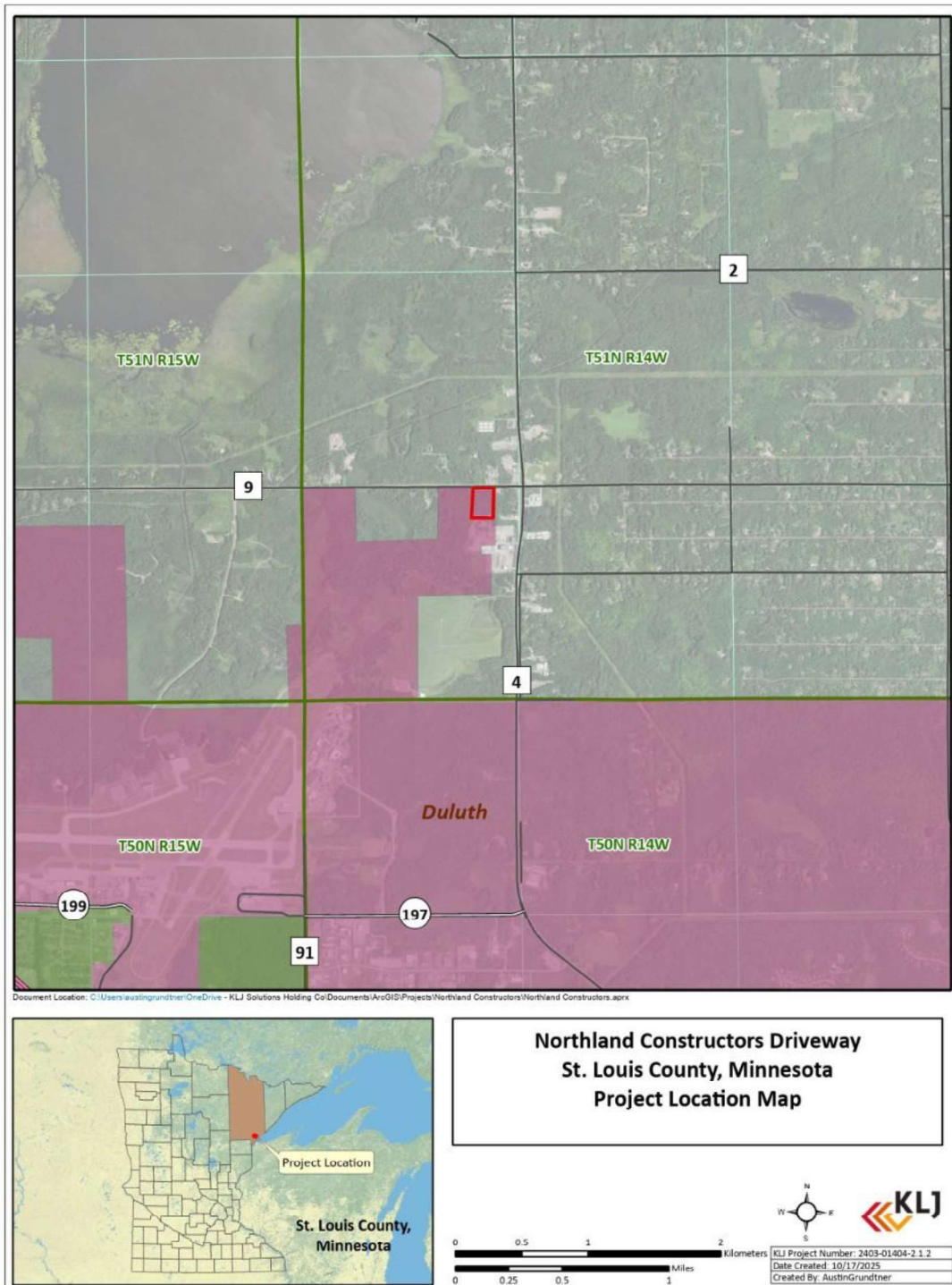
SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [[MVP-2025-01272-TMS](#)]

- c. [[National Regulatory Viewer, 2023 data sources](#)]
- d. [[Google Earth Pro and Google Maps Street View](#)]
- e. [[Desktop Evaluation, January 21, 2026](#)]

10. OTHER SUPPORTING INFORMATION. [[N/A](#)]

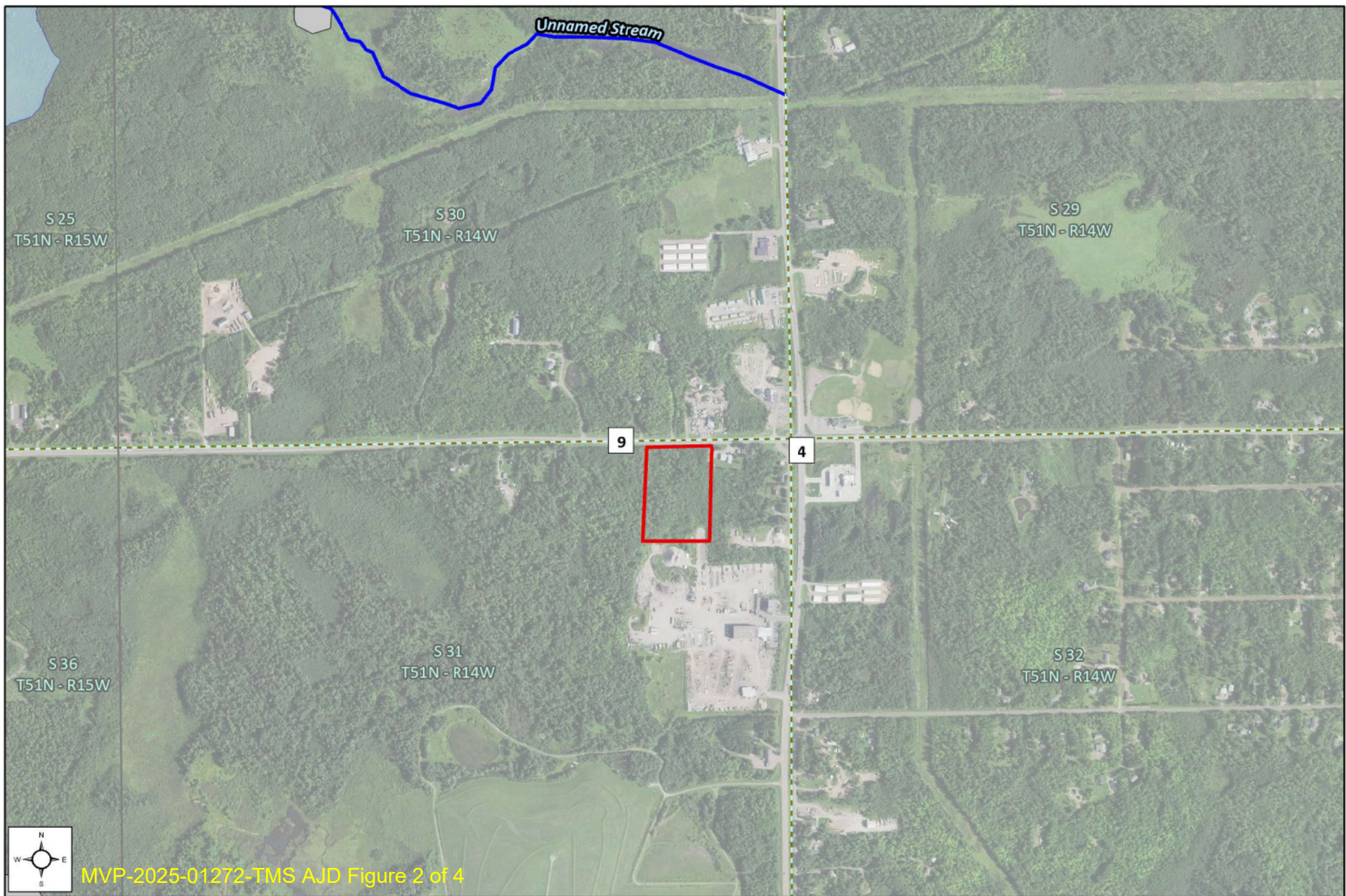
11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.

Figure 1. Project Location Map





MVP-2025-01272-TMS AJD Figure 1 of 4

Aquatic Resource Delineation Report
Northland Constructors Driveway
October 2025



MVP-2025-01272-TMS AJD Figure 2 of 4


Document Path: C:\Users\AustinGrundner\OneDrive - KLI Solutions Holding Co\Documents\ArcGIS\Projects\Northland Constructors\Northland Constructors.aprx

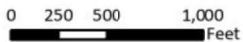
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 Imagery: ©2014 Nearmap USA & Dakota County
 KLI Project Number: 2403-01404-2.1.2
 Date Created: 10/17/2025 | Created By: JDP

**Northland Constructors Driveway
 St. Louis County, Minnesota**






DNR Public Waters Inventory

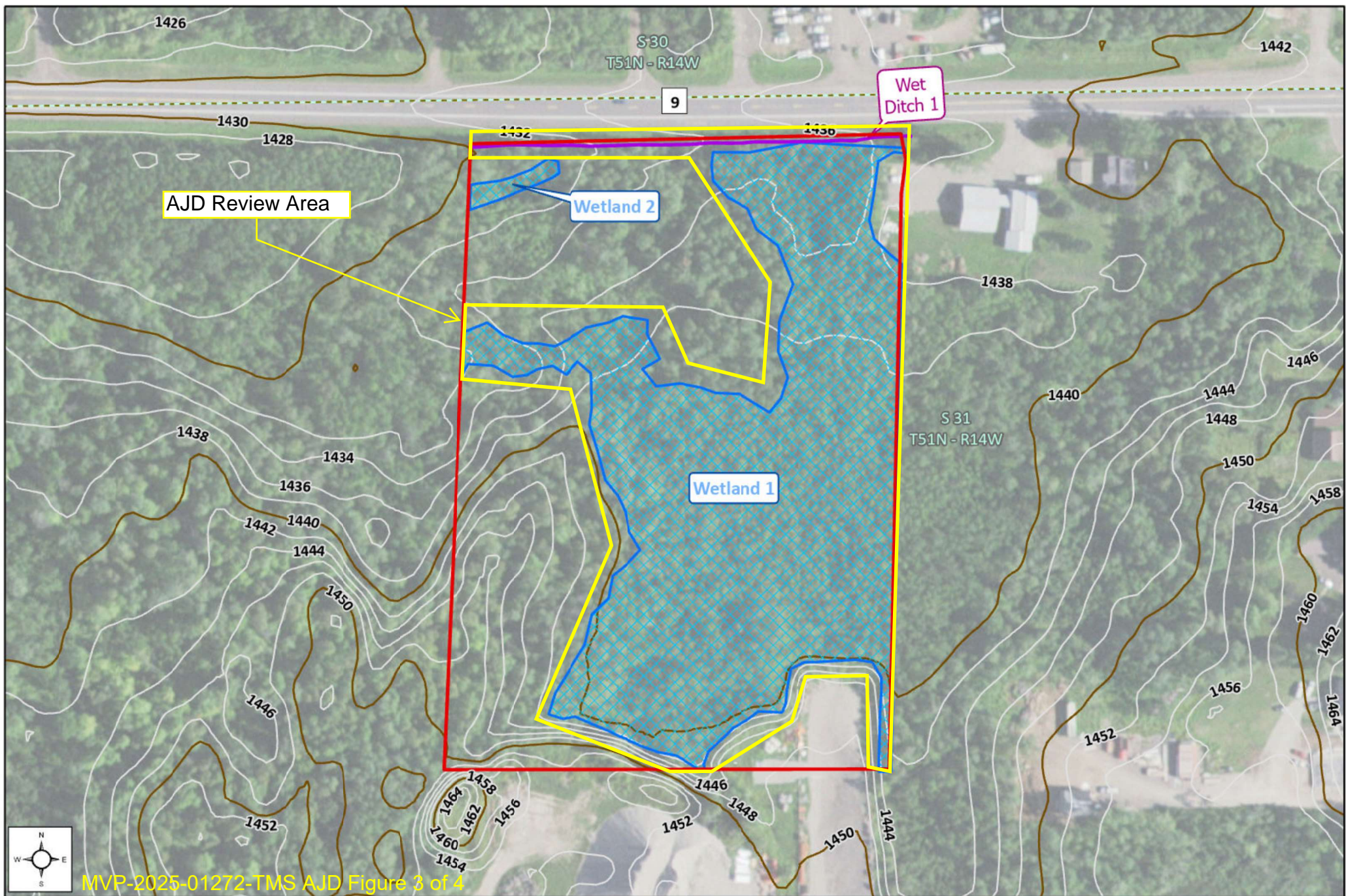


1:12,000



0 250 500 1,000 Feet

-  Study Area
-  Public Water Watercourse
-  Public Waters Basins
-  Section Line
-  Township Line



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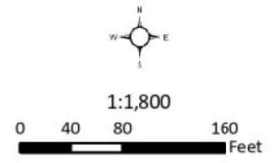


Data Source: MNDOT, KLI, MNDNR, & State of MN
Imagery: ©2014 Nearmap USA & Dakota County
KLJ Project Number: 2403-01401-2.1.2
Date Created: 11/17/2025 | Created By: JDP



**Northland Constructors Driveway
CSAH 4 - Rice Lake Road Corridor
St. Louis County, Minnesota**

LIDAR Contours



- Study Area
- Wet Ditch
- Wetlands
- Index Contour (10')
- Intermediate Contour (2')
- Section Line

