



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

[30 April 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) ,<sup>1</sup> [[MVP-2026-00297-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.<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.

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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-2026-00297-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 (0.41 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)
- 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 0.41 acre in size and is located in Section 27 of Township 55 North, Range 25 West in Grand Rapids, Itasca County, Minnesota (Lat. 47.211486, Long. -93.514354). The review area is outlined in yellow in the enclosed Figure 3 of 4. The review area is located at the Grand Rapids Airport and is immediately surrounded by the runway and taxiways to the east and additional airport infrastructure to the north and west.]

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. [N/A]<sup>5</sup>

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

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<sup>5</sup> 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.

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6. SECTION 10 JURISDICTIONAL WATERS<sup>6</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>7</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.
  - 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](#)]

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<sup>6</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>7</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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## 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 is not a Traditionally Navigable Water, territorial sea, or interstate water and is therefore not an (a)(1) water. The wetland delineation, aerial imagery, topographical maps, and digital elevation modeling indicate that Wetland 1 does not physically abut a relatively permanent (a)(2) impoundment or a jurisdictional (a)(3) tributary. Wetland 1 extends outside the review area to the west and digital elevation mapping indicates it is located in an enclosed depressional area in the immediate vicinity of the airport infrastructure that is fed by stormwater runoff from impervious surfaces to the north, east, and west, and from Wetland 2 to the southwest that is outside the review area. Wetland 1 drains to the east via culvert into a ditch that was graded during construction of the airport to direct runoff away from the runway and taxiway. Wetland 1 is a nontidal 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. For these reasons, Wetland 1 is not a jurisdictional water 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. [Joint Permit Application dated September 4, 2025, received March 11, 2026]
- b. [Wetland Delineation Report, SEH, dated September 4, 2025 and received March 11, 2026]
- c. [National Regulatory Viewer, 2023 data sources.]
- d. [Google Earth Pro]

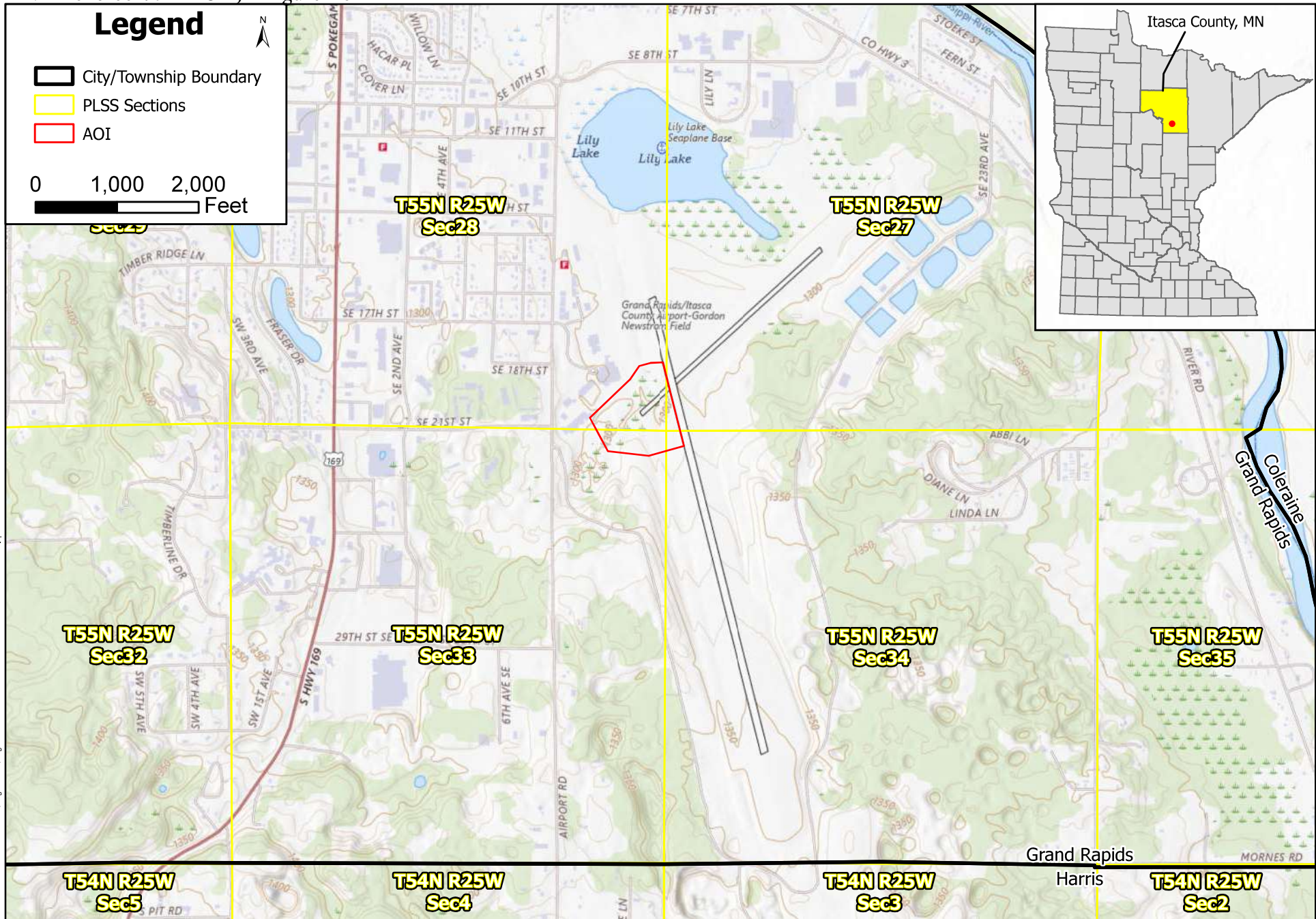
## 10. OTHER SUPPORTING INFORMATION. [N/A]

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

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additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.



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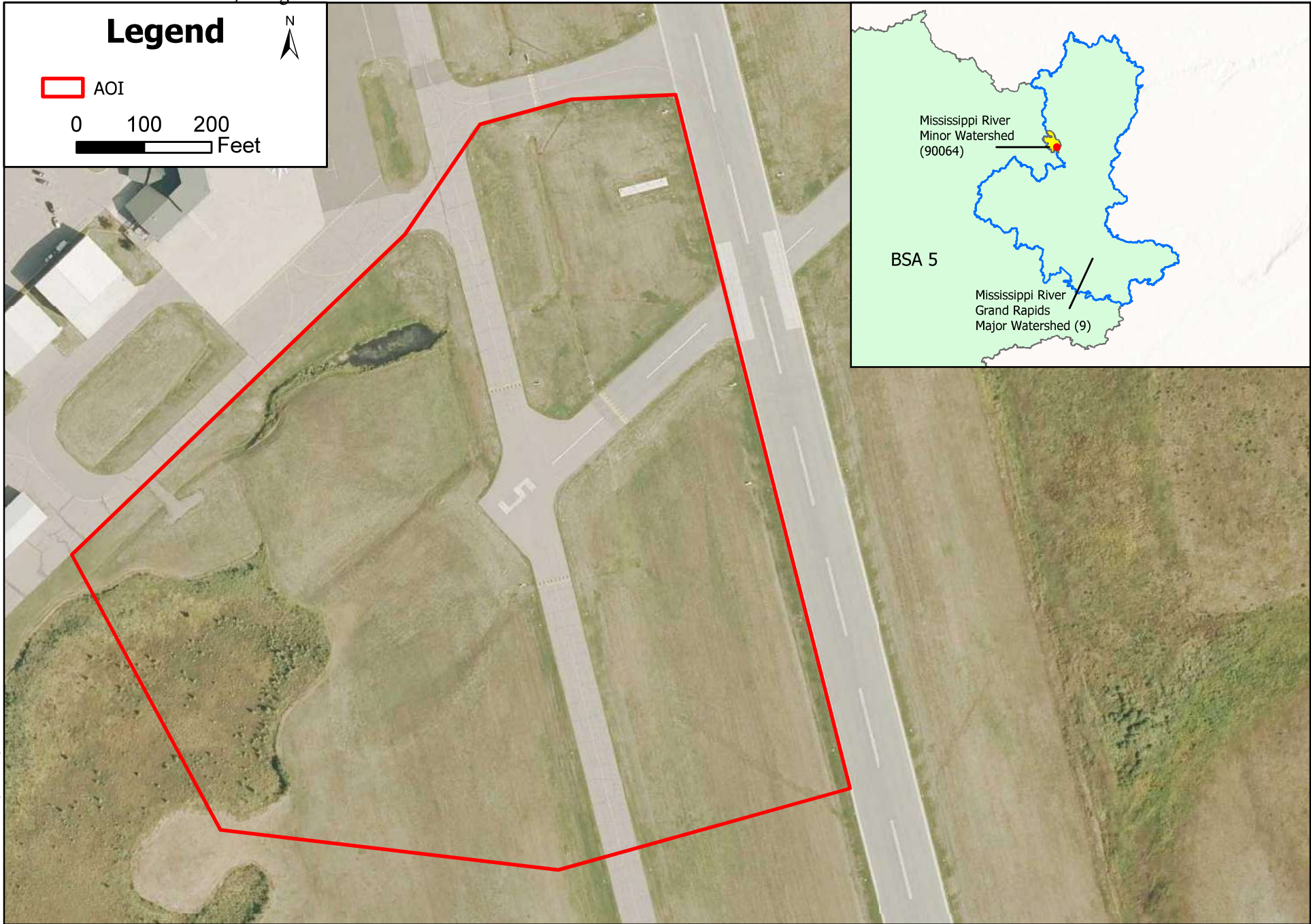
Project Number: GRAIT 185097  
Print Date: 8/25/2025

Map by: cferguson  
Projection: NAD 1983 UTM ZONE 15N  
Source: USGS, SEHinc, MNDNR, MNDOT, USGS, USDA, NRCS, ESRI

### Grand Rapids Airport - Wetland Delineation Grand Rapids, MN

**FIGURE 1**  
Site Location and Topography

This map is neither a legally recorded map nor a survey map and is not intended to be used as one. This map is a compilation of records, information, and data gathered from various sources listed on this map and is to be used for reference purposes only. SEH does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and SEH does not represent that the GIS Data can be used for navigational, tracking, or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. The user of this map acknowledges that SEH shall not be liable for any damages which arise out of the user's access or use of data provided.



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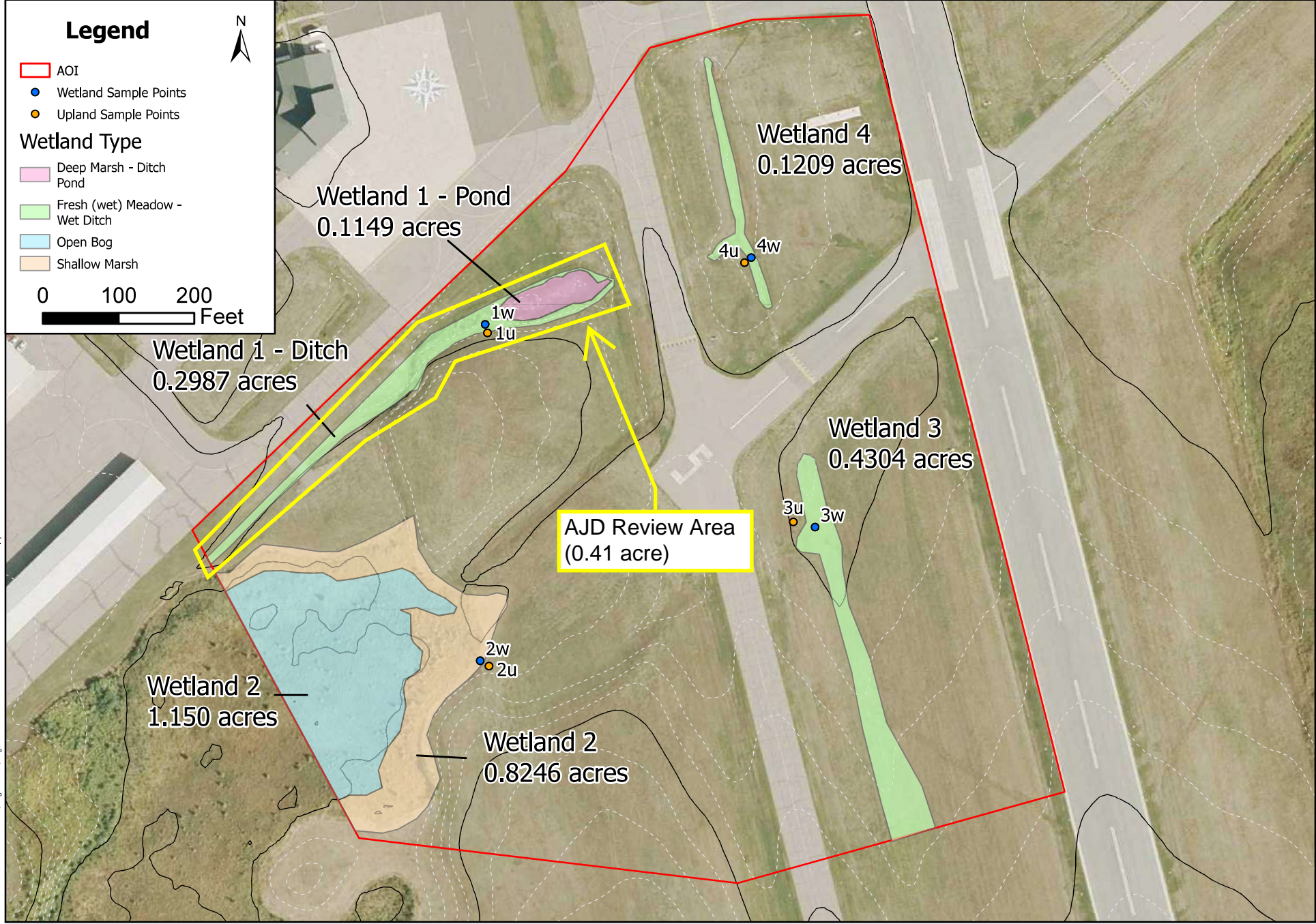
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Source: USGS, SEHinc, MNDNR, MNDOT, USGS, USDA, NRCS, ESRI, MNGEO

### Grand Rapids Airport - Wetland Delineation Grand Rapids, MN

**FIGURE 2**  
2023 Aerial Photography and Watersheds

This map is neither a legally recorded map nor a survey map and is not intended to be used as one. This map is a compilation of records, information, and data gathered from various sources listed on this map and is to be used for reference purposes only. SEH does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and SEH does not represent that the GIS Data can be used for navigational, tracking, or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. The user of this map acknowledges that SEH shall not be liable for any damages which arise out of the user's access or use of data provided.



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Grand Rapids Airport - Wetland Delineation  
 Grand Rapids, MN

**FIGURE 6**  
 Wetland Delineation Results

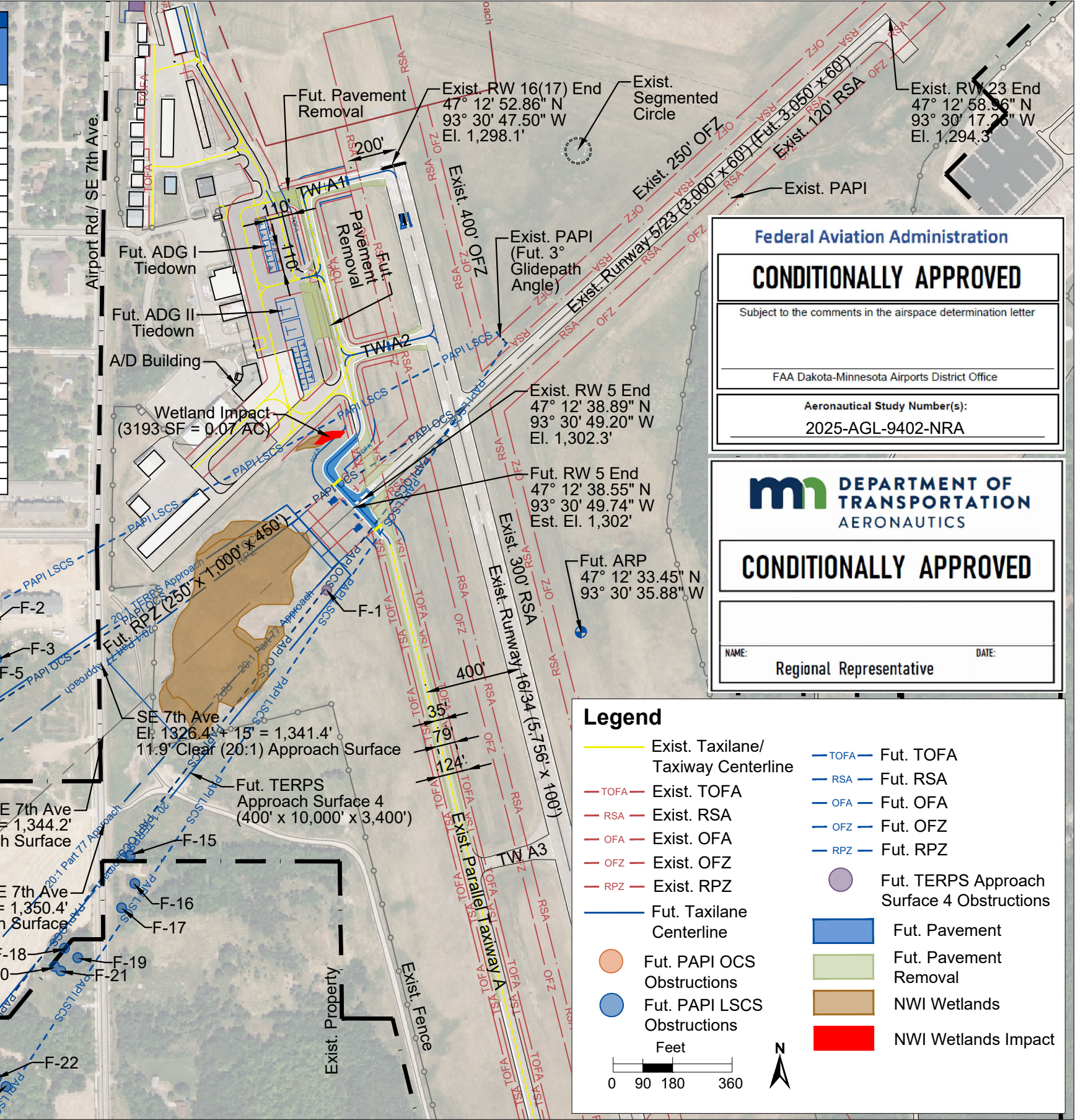
This map is neither a legally recorded map nor a survey map and is not intended to be used as one. This map is a compilation of records, information, and data gathered from various sources listed on this map and is to be used for reference purposes only. SEH does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and SEH does not represent that the GIS Data can be used for navigational, tracking, or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. The user of this map acknowledges that SEH shall not be liable for any damages which arise out of the user's access or use of data provided.



MVP-2026-00297-TMS AJD Figure 4 of 4

| Key  | Description  | Elevation (Feet, MSL) | Penetration               |               |                | Allowable Elevation | Disposition/ Triggering Event                  | On/Off Airport Property |
|------|--------------|-----------------------|---------------------------|---------------|----------------|---------------------|--|-------------------------|
|      |              |                       | Fut. 20:1 TERPS Surface 4 | Fut. PAPI OCS | Fut. PAPI LSCS |                     |  |                         |
| F-1  | Height Point | 1,311.8'              | 3.6'                      | -             | -              | 1,308.2'            | To be Removed with Obstruction Removal Project | On                      |
| F-2  | Tree         | 1,390.7               | -                         | -             | 15.4'          | 1,375.3'            | To be Removed with Obstruction Removal Project | Off                     |
| F-3  | Tree         | 1,396.1'              | -                         | -             | 18.4'          | 1,377.8'            | To be Removed with Obstruction Removal Project | Off                     |
| F-4  | Tree         | 1,402.2'              | -                         | -             | 20.3'          | 1,382.0'            | To be Removed with Obstruction Removal Project | Off                     |
| F-5  | Tree         | 1,397.5'              | -                         | -             | 14.6'          | 1,382.9'            | To be Removed with Obstruction Removal Project | Off                     |
| F-6  | Tree         | 1,400.1'              | -                         | -             | 10.3'          | 1,389.8'            | To be Removed with Obstruction Removal Project | Off                     |
| F-7  | Tree         | 1,419.5'              | -                         | -             | 26.3'          | 1,393.2'            | To be Removed with Obstruction Removal Project | Off                     |
| F-8  | Tree         | 1,421.4'              | -                         | -             | 30.2'          | 1,391.2'            | To be Removed with Obstruction Removal Project | Off                     |
| F-9  | Tree         | 1,398.3'              | -                         | -             | 6.7'           | 1,391.6'            | To be Removed with Obstruction Removal Project | Off                     |
| F-10 | Tree         | 1,436.5'              | -                         | -             | 40.9'          | 1,398.5'            | To be Removed with Obstruction Removal Project | Off                     |
| F-11 | Tree         | 1,429.4'              | -                         | -             | 25.4'          | 1,404.0'            | To be Removed with Obstruction Removal Project | Off                     |
| F-12 | Tree         | 1,431.5'              | -                         | -             | 28.7'          | 1,402.8'            | To be Removed with Obstruction Removal Project | Off                     |
| F-13 | Tree         | 1,436.2'              | -                         | -             | 34.9'          | 1,401.3'            | To be Removed with Obstruction Removal Project | Off                     |
| F-14 | Tree         | 1,440.3'              | 2.2'                      | 25.1'         | 18.4'          | 1,415.2' - 1,438.2' | To be Removed with Obstruction Removal Project | Off                     |
| F-15 | Tree         | 1,420.6'              | -                         | -             | 38.3'          | 1,382.4'            | To be Removed with Obstruction Removal Project | On                      |
| F-16 | Tree         | 1,421.2'              | -                         | -             | 36.8'          | 1,384.4'            | To be Removed with Obstruction Removal Project | Off                     |
| F-17 | Tree         | 1,421.1'              | -                         | -             | 33.2'          | 1,387.9'            | To be Removed with Obstruction Removal Project | Off                     |
| F-18 | Tree         | 1,422.2'              | -                         | -             | 18.4'          | 25.0'               | To be Removed with Obstruction Removal Project | Off                     |
| F-19 | Tree         | 1,422.5'              | -                         | -             | 25.7'          | 1,396.8'            | To be Removed with Obstruction Removal Project | Off                     |
| F-20 | Tree         | 1,427.1'              | -                         | -             | 27.2'          | 1,399.9'            | To be Removed with Obstruction Removal Project | Off                     |
| F-21 | Tree         | 1,420.4'              | -                         | -             | 20.7'          | 1,399.7'            | To be Removed with Obstruction Removal Project | Off                     |
| F-22 | Tree         | 1,441.7'              | -                         | -             | 25.9'          | 1,415.8'            | To be Removed with Obstruction Removal Project | Off                     |
| F-23 | Tree         | 1,436.2'              | -                         | -             | 20.6'          | 1,415.6'            | To be Removed with Obstruction Removal Project | Off                     |

Source: Martinez Geospatial Aerial Mapping, 2016.  
 Notes: There are no FAR Part 77 Approach or FAA-13B Approach Surface Obstructions (except F-1 & F-14) to the future Runway 5 end.



**Federal Aviation Administration**

**CONDITIONALLY APPROVED**

Subject to the comments in the airspace determination letter

FAA Dakota-Minnesota Airports District Office

Aeronautical Study Number(s):  
2025-AGL-9402-NRA

**mn DEPARTMENT OF TRANSPORTATION AERONAUTICS**

**CONDITIONALLY APPROVED**

NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

Regional Representative

**Legend**

- Exist. Taxilane/ Taxiway Centerline
- Exist. TOFA
- Exist. RSA
- Exist. OFA
- Exist. OFZ
- Exist. RPZ
- Fut. Taxilane Centerline
- Fut. TOFA
- Fut. RSA
- Fut. OFA
- Fut. OFZ
- Fut. RPZ
- Fut. TERPS Approach Surface 4 Obstructions
- Fut. PAPI OCS Obstructions
- Fut. PAPI LSCS Obstructions
- Fut. Pavement
- Fut. Pavement Removal
- NWI Wetlands
- NWI Wetlands Impact

Feet  
0 90 180 360

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