

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):

JAN 29 2018

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: MVP-2017-03645-RMM

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: MN County/parish/borough: Hennepin City: Brooklyn Park

Center coordinates of site (lat/long in degree decimal format): Lat. 45.096861° N, Long. -93.386301° W.

Universal Transverse Mercator:

Name of nearest waterbody: Bass Creek

Name of watershed or Hydrologic Unit Code (HUC): 07010206

☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: January 19, 2018

☐ Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There are no "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There are no "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.: N/A

2. Non-regulated waters/wetlands (check if applicable):¹

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: The review area contains several aquatic resources; however, this AJD review is limited to the boundaries of Ditches 1, 2, 3, 4, and 5. Review of the Hennepin County Soil Survey Geographic Database shows the ditches were constructed in a non-hydric soil units. The National Wetland Inventory map does not depict any wetlands historically within the boundaries of those ditches. These ditches were constructed wholly in uplands, drain only uplands and have less than permanent flow. Per the Rapanos decision the drainage ditches are not waters of the U.S.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs: N/A

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY): N/A

C. SIGNIFICANT NEXUS DETERMINATION: N/A

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY): N/A

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY): N/A

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.

☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.

¹ Supporting documentation is presented in Section III.F.

- ☐ Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
- ☐ Other (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☒ Non-wetland waters (i.e., rivers, streams): **Ditch 1: 125 linear feet, Ditch 2: 200 linear feet, Ditch 3: 550 linear feet, Ditch 4: 50 linear feet, Ditch 5: 1,975 linear feet** width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource:
- ☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

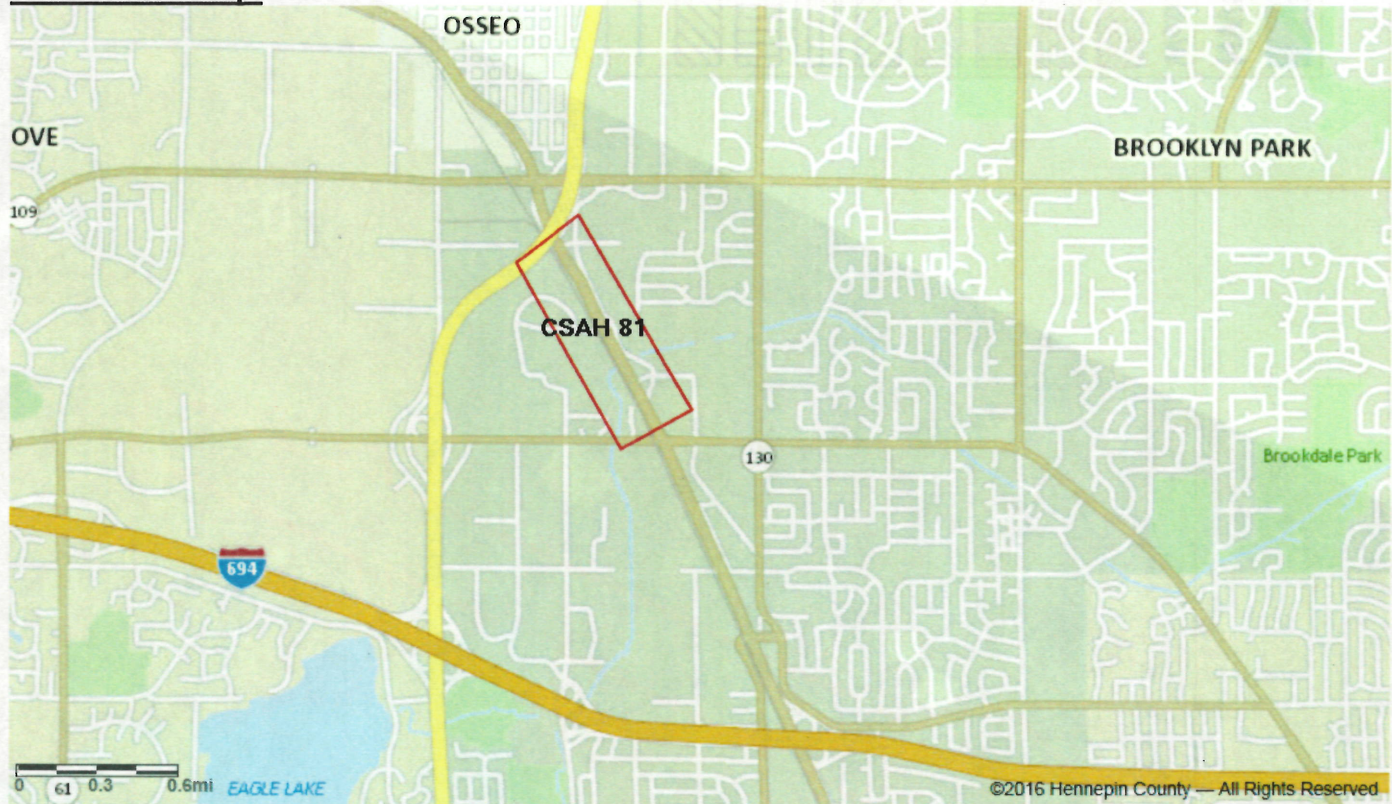
- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource:
- ☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **Location Map**
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- ☒ Office concurs with data sheets/delineation report.
- ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps:
- ☐ Corps navigable waters' study:
- ☒ U.S. Geological Survey Hydrologic Atlas:
- ☒ USGS NHD data.
- ☐ USGS 8 and 12 digit HUC maps.
- ☐ U.S. Geological Survey map(s). Cite scale & quad name:
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Hennepin County SSURGO**
- ☒ National wetlands inventory map(s). Cite name: **USFWS NWI**
- ☒ State/Local wetland inventory map(s): **MN DNR PWI**
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): **2013 FSA**
or ☐ Other (Name & Date):
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☐ Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD: .

WETLAND SUPPLEMENTAL ASSESSMENT REPORT (September 2016)**CSAH 81
Brooklyn Park, MN****Prepared by: Tony Brough, Hennepin County Environmental Services. (Wetland Cert #1082)****Site Location Map:****Purpose/Process:**

This assessment is to provide necessary information to determine wetland jurisdictions and general wetland locations for our design staff as they proceed with the project design. If the LGU agrees with this assessment, then a field delineation including staking the boundaries, providing necessary supporting documentation, and surveying the boundary will occur in the spring of 2017 for only the areas identified as being regulated by the WCA.

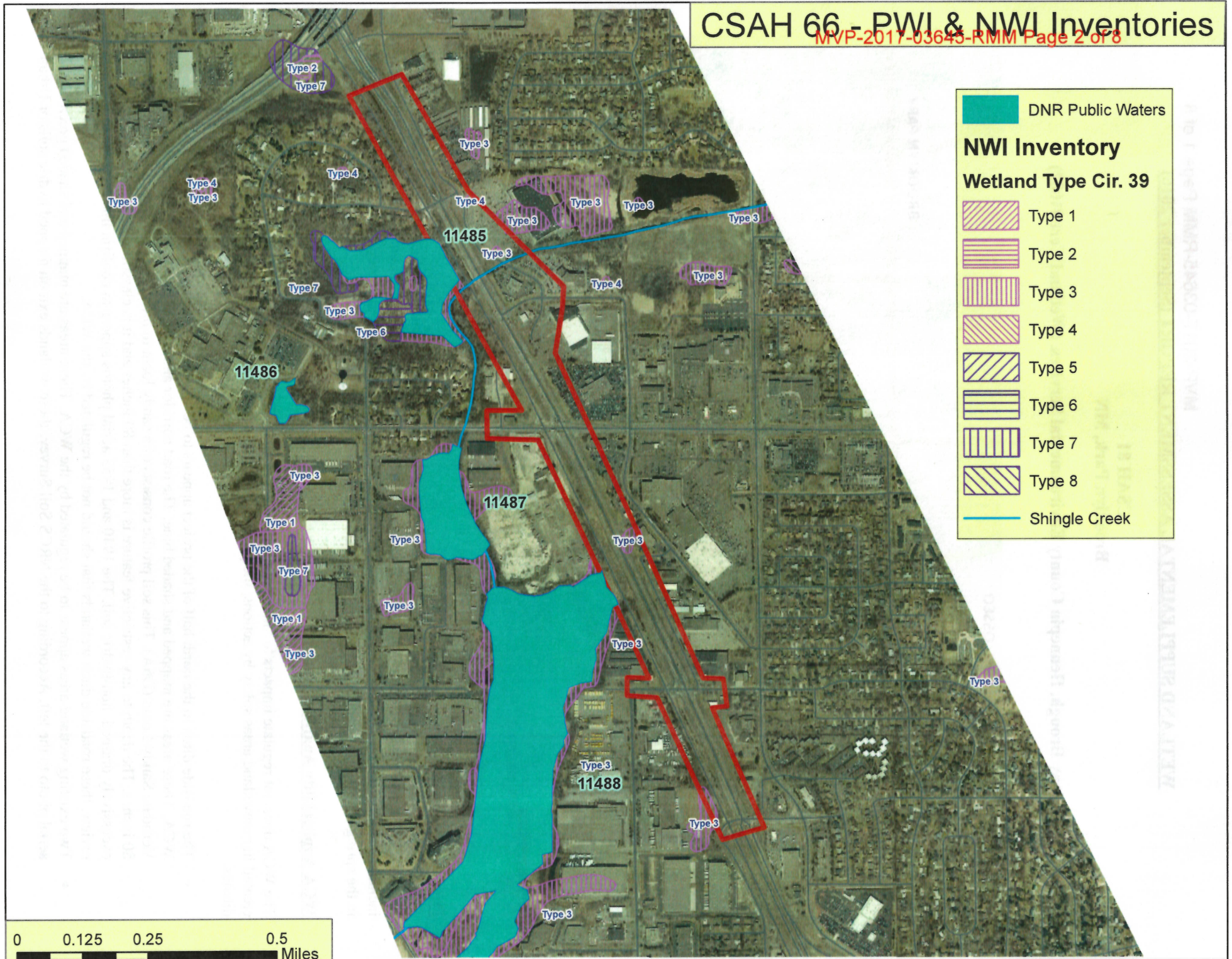
WCA Applicability Analysis:

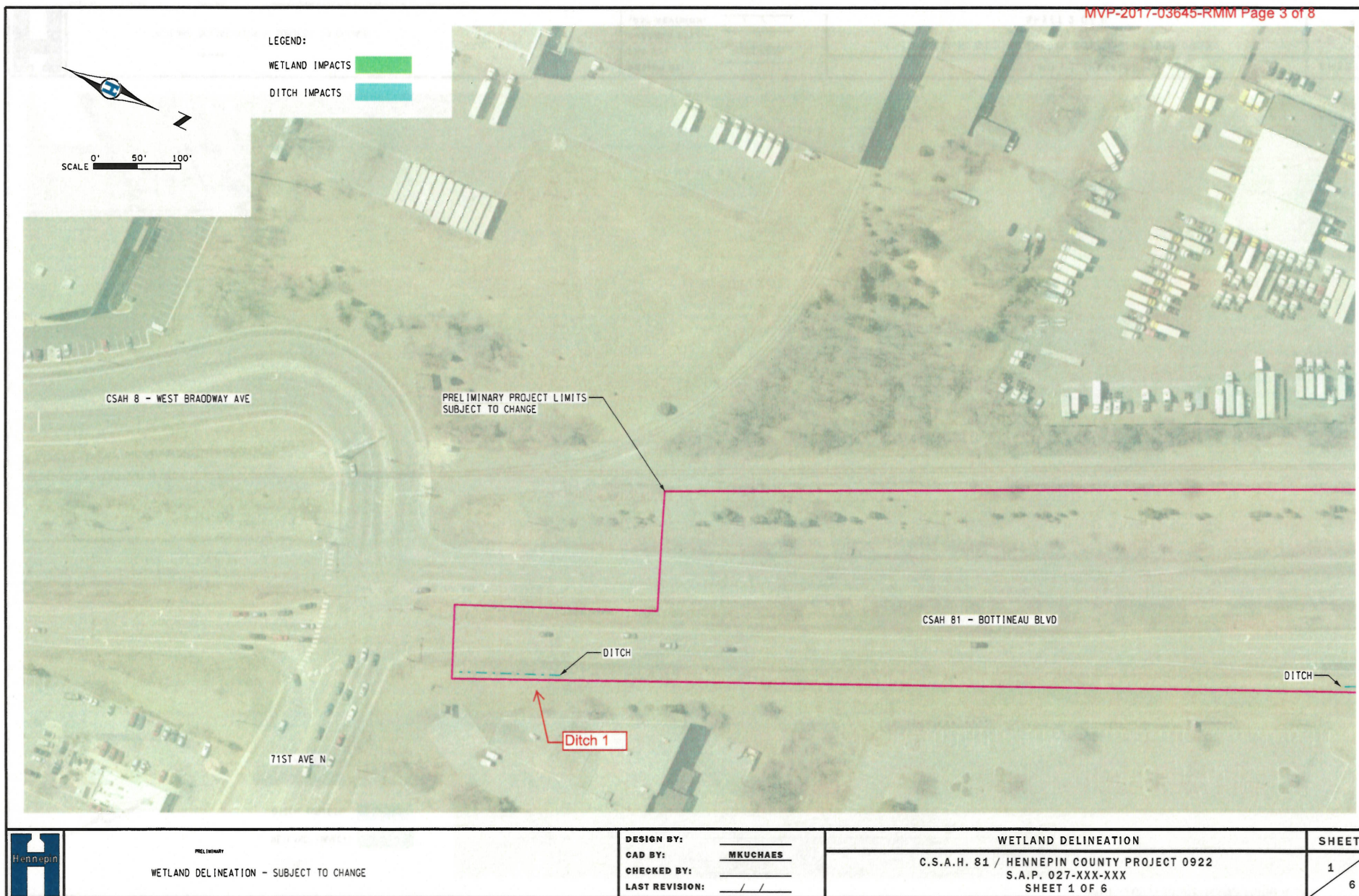
The WCA does not regulate impacts to “incidental wetlands.” (Pg. 5). This includes wetland areas demonstrated to be created in nonwetland areas solely by actions, the purpose of which was not to create the wetlands...including roadside ditches.

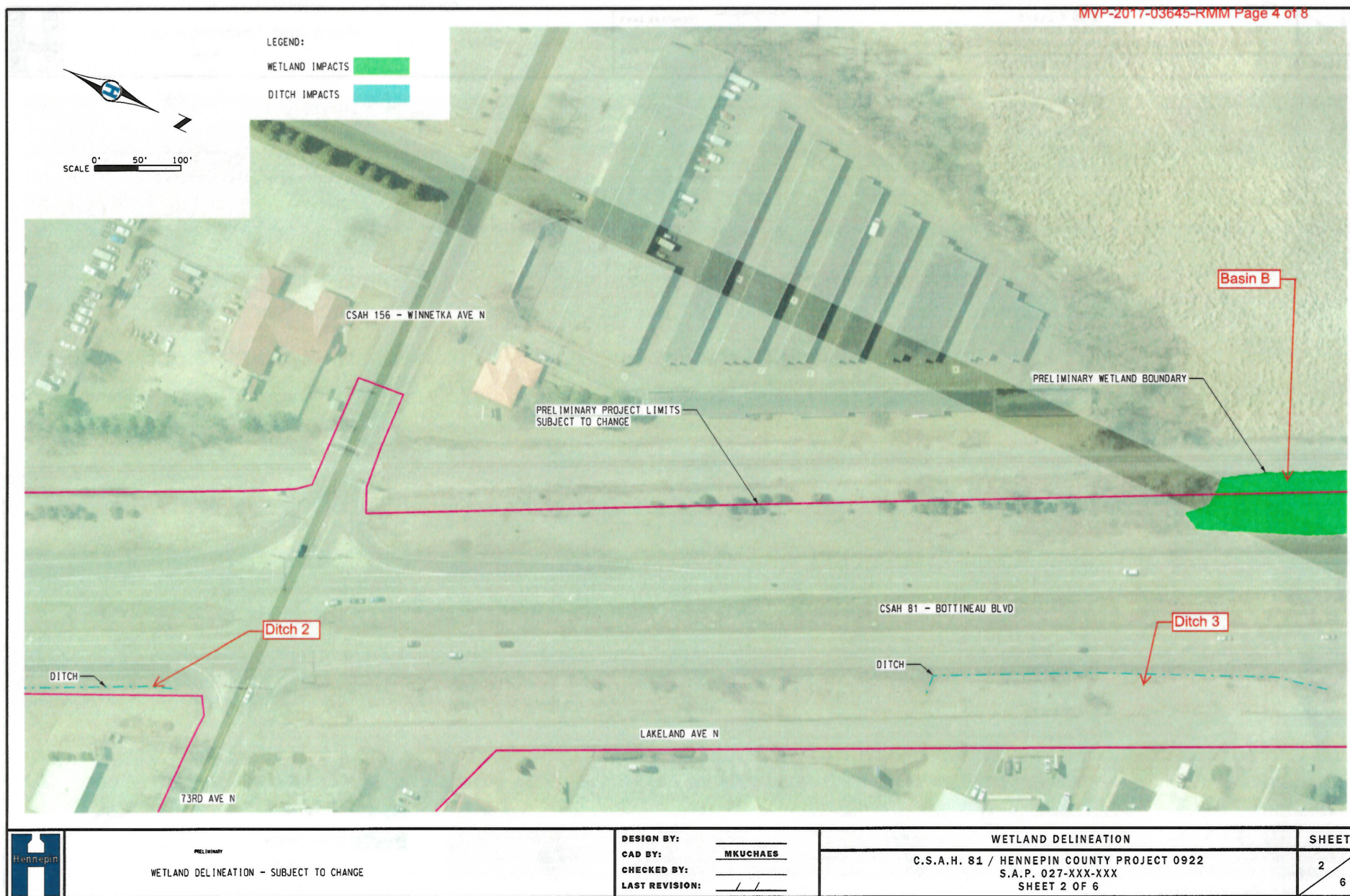
- The roadside ditch in the north half of the project appears to be “incidental wetlands” and not regulated by the WCA. These areas are mapped and shaded blue. The road corridor and roadside ditch for these areas is mapped as Verndale Sandy Loam (D6A). This soil profile consists of a sandy loam in the upper 19 inches and sand down to 80 inches. The depth to any restrictive feature is more than 80 inches and it is classified as a somewhat excessively drained, non-hydric soil. The 1940 and 1953 aerial photos appear to confirm this determination. Upon review, these roadside ditch wetlands that should not be regulated by the WCA.
- Two existing wetland areas appear to be regulated by the WCA. These areas are mapped and shaded green on the aerial photo to the left. According to the NRCS Soil Survey, these wetlands exist on mapped hydric soils or Urban

CSAH 66 - PWI & NWI Inventories

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PRELIMINARY
 WETLAND DELINEATION - SUBJECT TO CHANGE

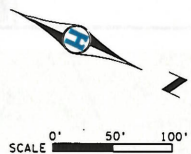
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 CAD BY: MKUCHAES
 CHECKED BY: _____
 LAST REVISION: / /

WETLAND DELINEATION

C.S.A.H. 81 / HENNEPIN COUNTY PROJECT 0922
 S.A.P. 027-XXX-XXX
 SHEET 2 OF 6

SHEET

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 6



LEGEND:

WETLAND IMPACTS



DITCH IMPACTS



PRELIMINARY

WETLAND DELINEATION - SUBJECT TO CHANGE

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CAD BY:

MKUCHAES

CHECKED BY:

LAST REVISION:

WETLAND DELINEATION

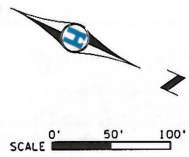
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SHEET 3 OF 6

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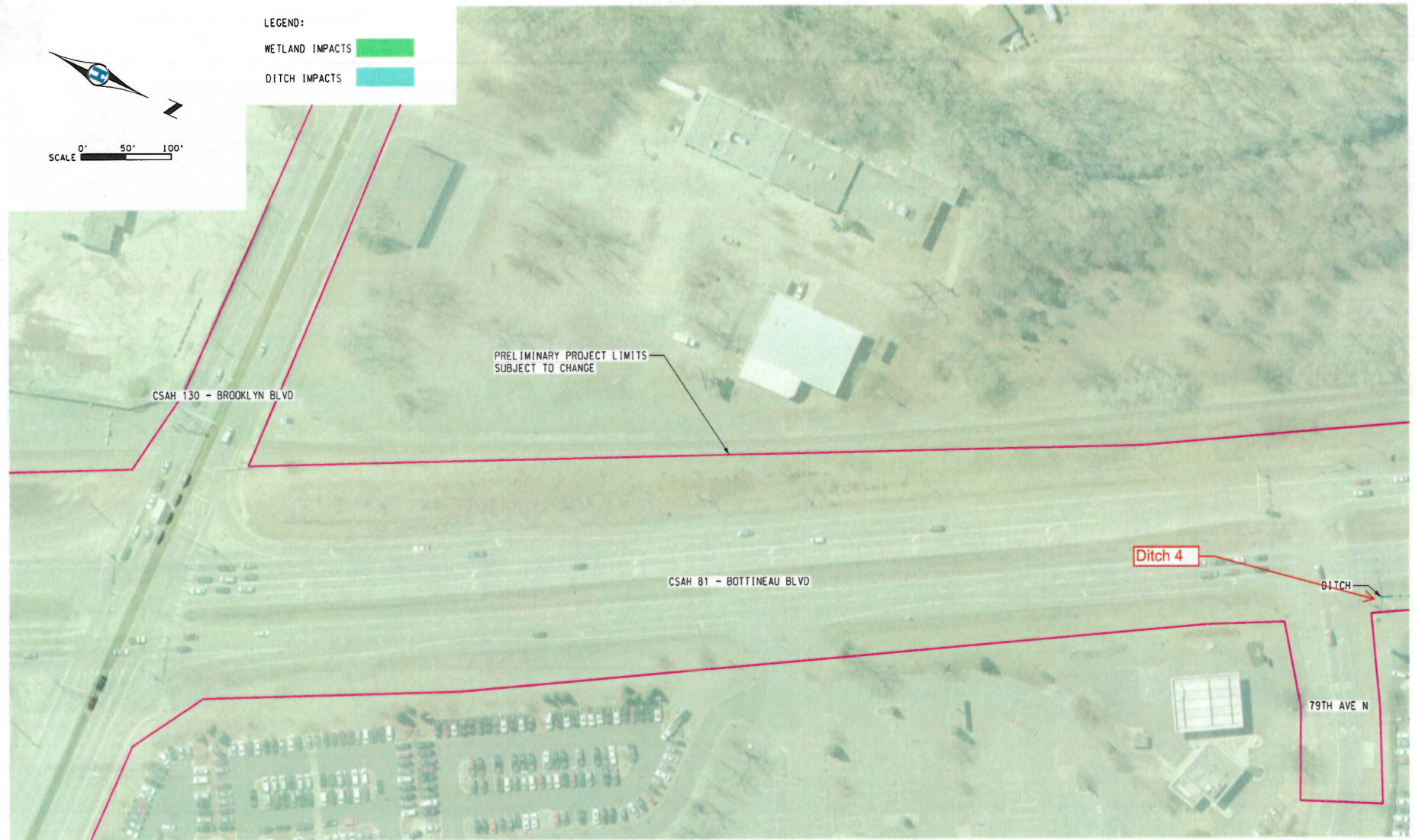
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LEGEND:
 WETLAND IMPACTS
 DITCH IMPACTS



PRELIMINARY PROJECT LIMITS
 SUBJECT TO CHANGE

CSAH 130 - BROOKLYN BLVD

CSAH 81 - BOTTINEAU BLVD

Ditch 4

DITCH

79TH AVE N



WETLAND DELINEATION - SUBJECT TO CHANGE

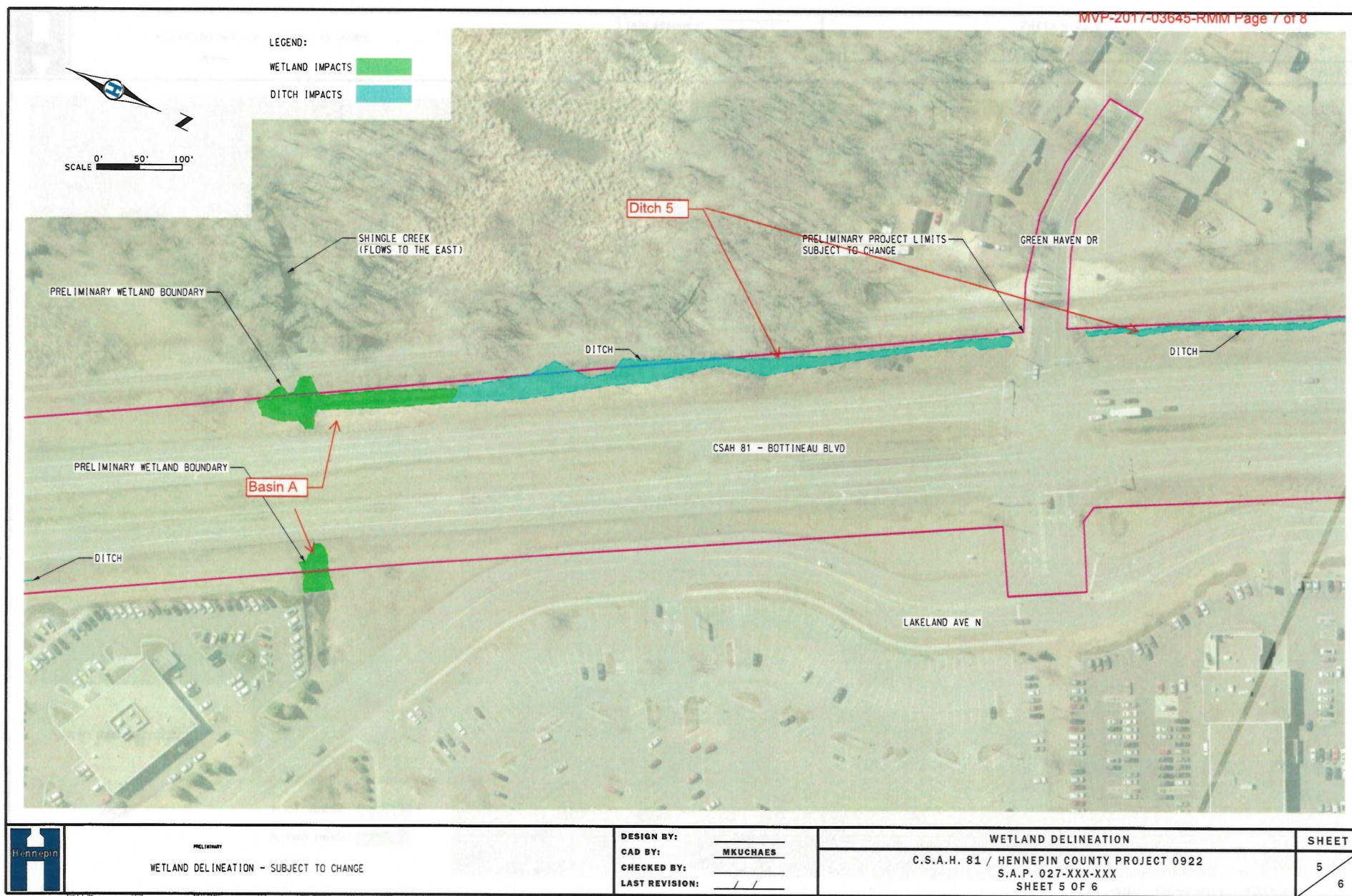
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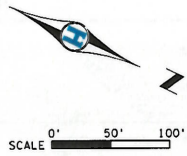
WETLAND DELINEATION

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 SHEET 4 OF 6

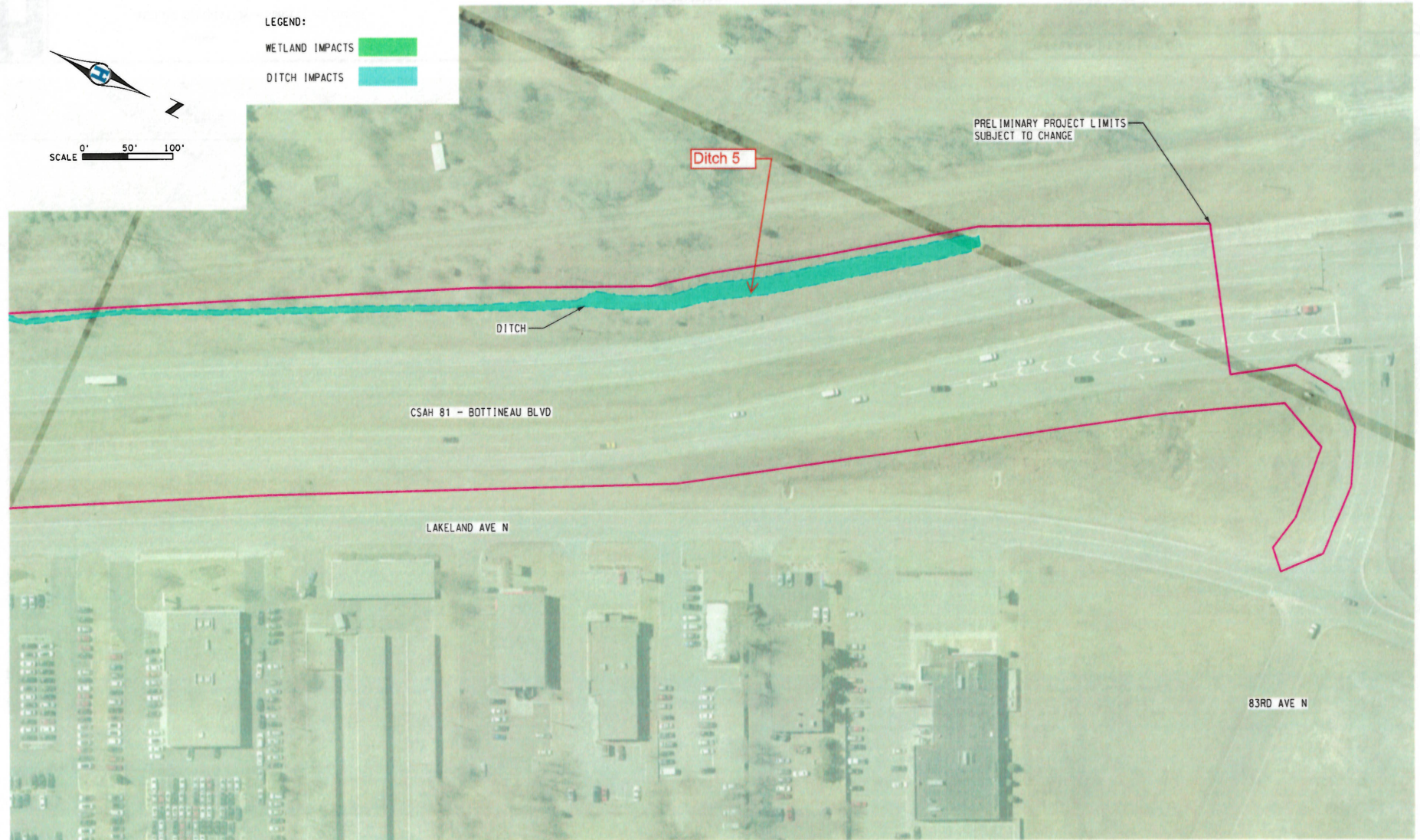
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LEGEND:
 WETLAND IMPACTS
 DITCH IMPACTS



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