



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

CEMVP-RD

November 14, 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-2021-02112-JST-JST MFR 1 of 1²

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.³ 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.⁴

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*").

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 When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, the territorial seas, or interstate water that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).

³ 33 CFR 331.2.

⁴ Regulatory Guidance Letter 05-02.

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),⁵ the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

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).

Name of Aquatic Resource	JD or Non-JD	Section 404/Section 10
Wetland 1A (0.10 acre)	Non-Jurisdictional	Excluded (b)(3)
Wet Ditch 1B (0.07 acre)	Non-Jurisdictional	Excluded (b)(3)
Wetland 1C (0.09 acre)	Non-Jurisdictional	Excluded (b)(3)
Wet Ditch 1C (0.04 acre)	Non-Jurisdictional	Excluded (b)(3)
Wet Ditch 5B (0.10 acre)	Non-Jurisdictional	Excluded (b)(3)
Wetland 7 (0.02 acre)	Non-Jurisdictional	Excluded (b)(3)
Wetland 12F (0.16 acre)	Non-Jurisdictional	Excluded (b)(3)
Wet Ditch 8F (0.08 acre)	Non-Jurisdictional	Excluded (b)(3)
Wetland 8E (0.13 acre)	Non-Jurisdictional	Excluded (b)(3)
Wetland 12E (0.03 acre)	Non-Jurisdictional	Excluded (b)(3)
Wetland 8B (0.09 acre)	Non-Jurisdictional	Excluded (b)(3)
Wet Ditch 12A (0.19 acre)	Non-Jurisdictional	Excluded (b)(3)
Wet Ditch 9F (0.19 acre)	Non-Jurisdictional	Excluded (b)(3)
Wet Ditch 20 (0.02 acre)	Non-Jurisdictional	Excluded (b)(3)
Wet Ditch 18A (0.10 acre)	Non-Jurisdictional	Excluded (b)(3)
Wetland 18B (0.16 acre)	Non-Jurisdictional	Does not meet (a)(4)
Wet Ditch 18D (0.34 acre)	Non-Jurisdictional	Excluded (b)(3)

⁵ 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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Wet Ditch 18M (0.15 acre)	Non-Jurisdictional	Excluded (b)(3)
Wetland 18E (0.19 acre)	Non-Jurisdictional	Does not meet (a)(4)
Wetland 18F (0.19 acre)	Non-Jurisdictional	Does not meet (a)(4)
Wet Ditch 18L (0.45 acre)	Non-Jurisdictional	Excluded (b)(3)
Wetland 18G (0.52 acre)	Non-Jurisdictional	Does not meet (a)(4)
Wet Ditch 18H (0.15 acre)	Non-Jurisdictional	Excluded (b)(3)
Wet Ditch 12G (0.34 acre)	Non-Jurisdictional	Excluded (b)(3)
Wet Ditch 12H (0.03 acre)	Non-Jurisdictional	Excluded (b)(3)
Wet Ditch 8G (0.27 acre)	Non-Jurisdictional	Excluded (b)(3)
Wet Ditch 9E (0.009 acre)	Non-Jurisdictional	Excluded (b)(3)
Wet Ditch 9A (0.14 acre)	Non-Jurisdictional	Excluded (b)(3)
Wet Ditch 18J (0.32 acre)	Non-Jurisdictional	Excluded (b)(3)
Wetland 17 (0.06 acre)	Non-Jurisdictional	Excluded (b)(3)
Wetland 14A (0.05 acre)	Non-Jurisdictional	Does not meet (a)(4)
Wetland 14B (1.34 acre)	Non-Jurisdictional	Does not meet (a)(4)
Wetland 22A (0.03 acre)	Non-Jurisdictional	Does not meet (a)(4)
Wetland 22B (0.07 acre)	Non-Jurisdictional	Does not meet (a)(4)
Wetland 26 (0.01 acre)	Non-Jurisdictional	Does not meet (a)(4)

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 for this determination includes nine wetlands and twenty-six wet ditches as identified in Section 1(a) of this MFR and shown on the attached figures labeled MVP-2021-02112-JST AJD Figures – Pages 1-10 of 10.
 - a. Location Description: The project/review area is located in Sections 24 & 25, Township 130N, Range 37W; Sections 12, 13, 14, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, Township 130N, Range 36W, Douglas County, Minnesota.
 - b. Center Coordinates of the Project Site (in decimal degrees)
Latitude: 46.062940 Longitude: -95.216380
 - c. Nearest City or Town: Miliona
 - d. County: Douglas
 - e. State: Minnesota
 - f. Other associated Jurisdictional Determinations (including outcomes):
There are no other associated Jurisdictional Determinations with this review area.
4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. N/A⁶
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. N/A
6. SECTION 10 JURISDICTIONAL WATERS⁷: 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 10.⁸
N/A

⁶ 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.

⁷ 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.

⁸ 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.

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. N/A

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).⁹

The aquatic resources identified as Wetland 1A, Wet Ditch 1B, Wetland 1C, Wet Ditch 1C, Wet Ditch 5B, Wetland 7, Wetland 12F, Wet Ditch 8F, Wetland 8E, Wetland 12E, Wet Ditch 12G, Wet Ditch 12H, Wet Ditch 8G, Wet Ditch 9A, Wet Ditch 9E, Wetland 8B, Wet Ditch 12A, Wet Ditch 9F, Wet Ditch 20, Wet Ditch 18A, Wet Ditch 18D, Wet Ditch 18J, Wet Ditch 18M, Wet Ditch 18L, Wet Ditch

⁹ 88 FR 3004 (January 18, 2023)

18H, and Wetland 17 are linear roadside drainage ditches constructed in upland and draining only upland. This determination is supported by the NRCS Web Soil Survey which indicates that these areas are mapped in non-hydric soils. The National Hydrography Dataset (NHD) and National Wetlands Inventory (NWI) also do not show any features overlapping with the above referenced resources. A review of Google Earth Aerial Imagery indicates that these features do not have flowing water and are located adjacent to the roadway. A review of the US Geological Service 3DEP Hillshade, DEM, and 2-ft Contour shows that these features are located within depressional areas in higher elevations, indicating that these features were constructed in uplands. Therefore, these features were constructed as drainage features to convey runoff from the roadway. Based on a review of desktop resources, Wetland 1A, Wet Ditch 1B, Wetland 1C, Wet Ditch 1C, Wet Ditch 5B, Wetland 7, Wetland 12F, Wet Ditch 8F, Wetland 8E, Wetland 12E, Wet Ditch 12G, Wet Ditch 12H, Wet Ditch 8G, Wet Ditch 9A, Wetland 8B, Wet Ditch 12A, Wet Ditch 9F, Wet Ditch 9E, Wet Ditch 20, Wet Ditch 18A, Wet Ditch 18D, Wet Ditch 18J, Wet Ditch 18M, Wet Ditch 18L, Wet Ditch 18H, and Wetland 17 are linear roadside drainage ditches constructed in upland, draining only upland, and do not carry a relatively permanent flow of water. Therefore, these aquatic resources have been determined to be Paragraph (b)(3) excluded ditches and are not subject to regulation under Section 404 of the Clean Water Act (CWA).

- 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 aquatic resources within the review area identified as Wetland 18B, Wetland 18E, Wetland 18F, Wetland 18G, Wetland 14A, Wetland 14B, Wetland 22A, Wetland 22B, and Wetland 26 are not TNWs, territorial seas, or interstate waters and are therefore not (a)(1) waters. This determination is supported by the national wetland inventory and hydrography datasets which do not identify any aquatic resources or other potential connections between these wetlands and any other requisite covered waters. A review of Google Earth aerial imagery also indicates that these wetlands are surrounded by uplands and the surrounding area is predominantly agricultural.

Wetland 18B is a fresh wet meadow wetland located on the north side of CSAH 14. Wetland 18B is located within a depressional area, partially hydric soils and is surrounded entirely by uplands in agricultural fields.

Wetland 18E is a fresh wet meadow wetland located on the north side of CSAH 14. Wetland 18E overlaps with an NWI mapped fresh wet meadow wetland which extends beyond the project limits to the north. This feature was evaluated in its entirety and determined that it does not have a continuous surface connection from Wetland 18E to any downstream waters as it is surrounded entirely by uplands in agricultural fields.

Wetland 18F is a fresh wet meadow wetland located on the north side of CSAH 14. Wetland 18F overlaps with an NWI mapped fresh wet meadow wetland which extends beyond the project limits to the north. This feature was evaluated in its entirety and determined that it does not have a continuous surface connection from Wetland 18E to any downstream waters as it is surrounded entirely by uplands in agricultural fields.

Wetland 18G is a shallow marsh wetland located on the north side of CSAH 14. Wetland 18G overlaps with an NWI mapped scrub-shrub/forested/wet meadow wetland complex that extends beyond the project limits to the north. The extents of this complex were evaluated and determined that it does not have a continuous surface connection from Wetland 18G to any downstream waters as it is surrounded entirely by uplands in agricultural fields.

Wetland 14A is a fresh wet meadow wetland located on the north side of CSAH 14. Wetland 14A is located within a depressional area, partially hydric soils and is surrounded entirely by uplands in agricultural fields.

Wetland 14B is a fresh wet meadow wetland located on the south side of CSAH 14 opposite of Wetland 14A. Wetland 14A is located within a depressional area, partially hydric soils, and is surrounded entirely by uplands in agricultural fields.

Wetland 22A is a fresh wet meadow wetland located on the north side of CSAH 14. Wetland 22A is located within a depressional area, mostly hydric soils, and is surrounded entirely by uplands in agricultural fields.

Wetland 22B is a fresh wet meadow wetland located on the south side of CSAH 14 opposite of Wetland 22A. Wetland 22B overlaps with an NWI mapped fresh wet meadow wetland that extends beyond the project limits to the south. This feature was evaluated in its entirety and determined that it does not have a continuous surface connection from Wetland 22B to any downstream waters as it is surrounded entirely by uplands in agricultural fields.

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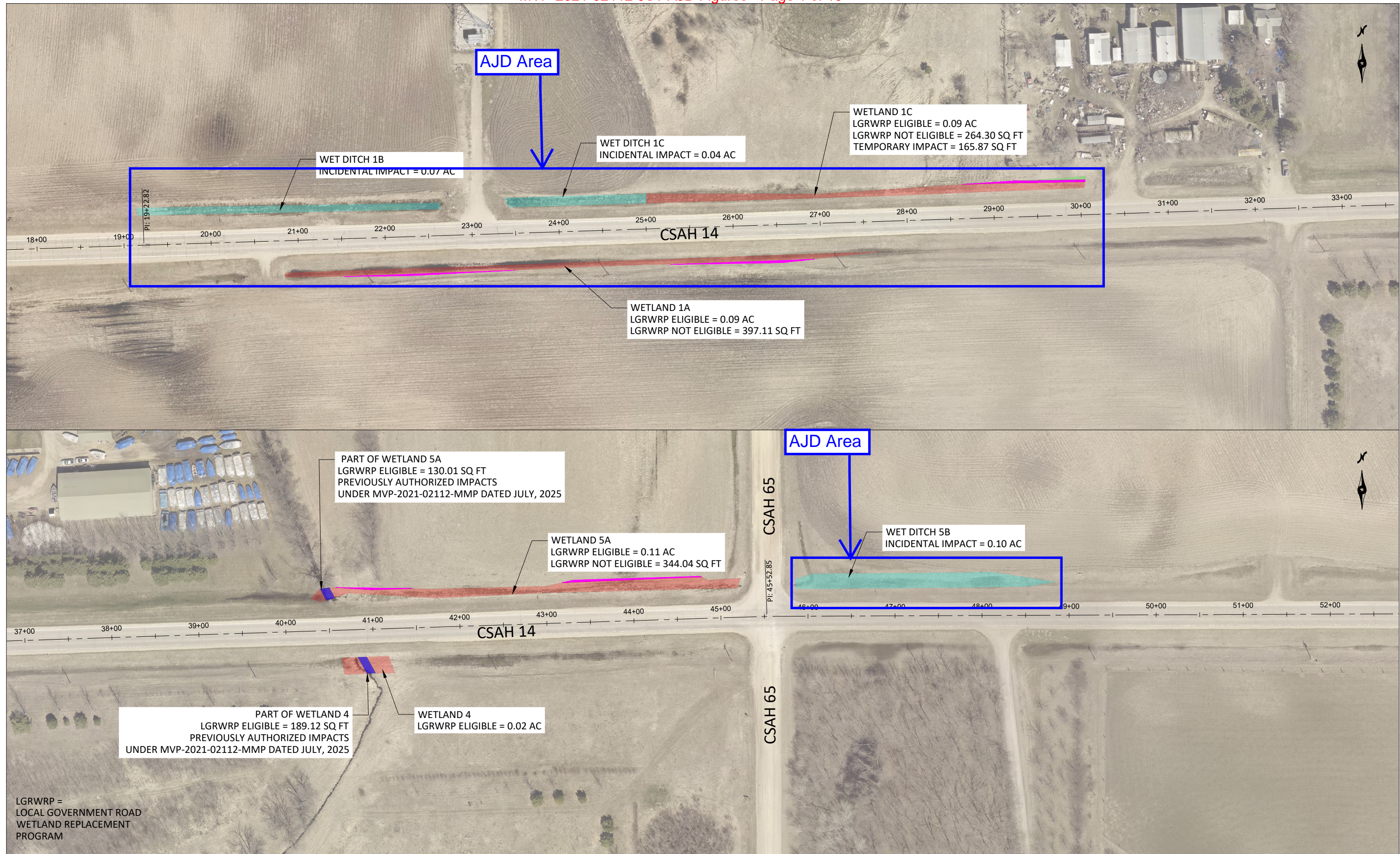
Wetland 26 is a fresh wet meadow wetland located on the north side of CSAH 14 at the CSAH 14/Hemlock Road NE intersection. Wetland 26 is located within a depressional area, mostly hydric soils, and is surrounded entirely by uplands in agricultural fields.

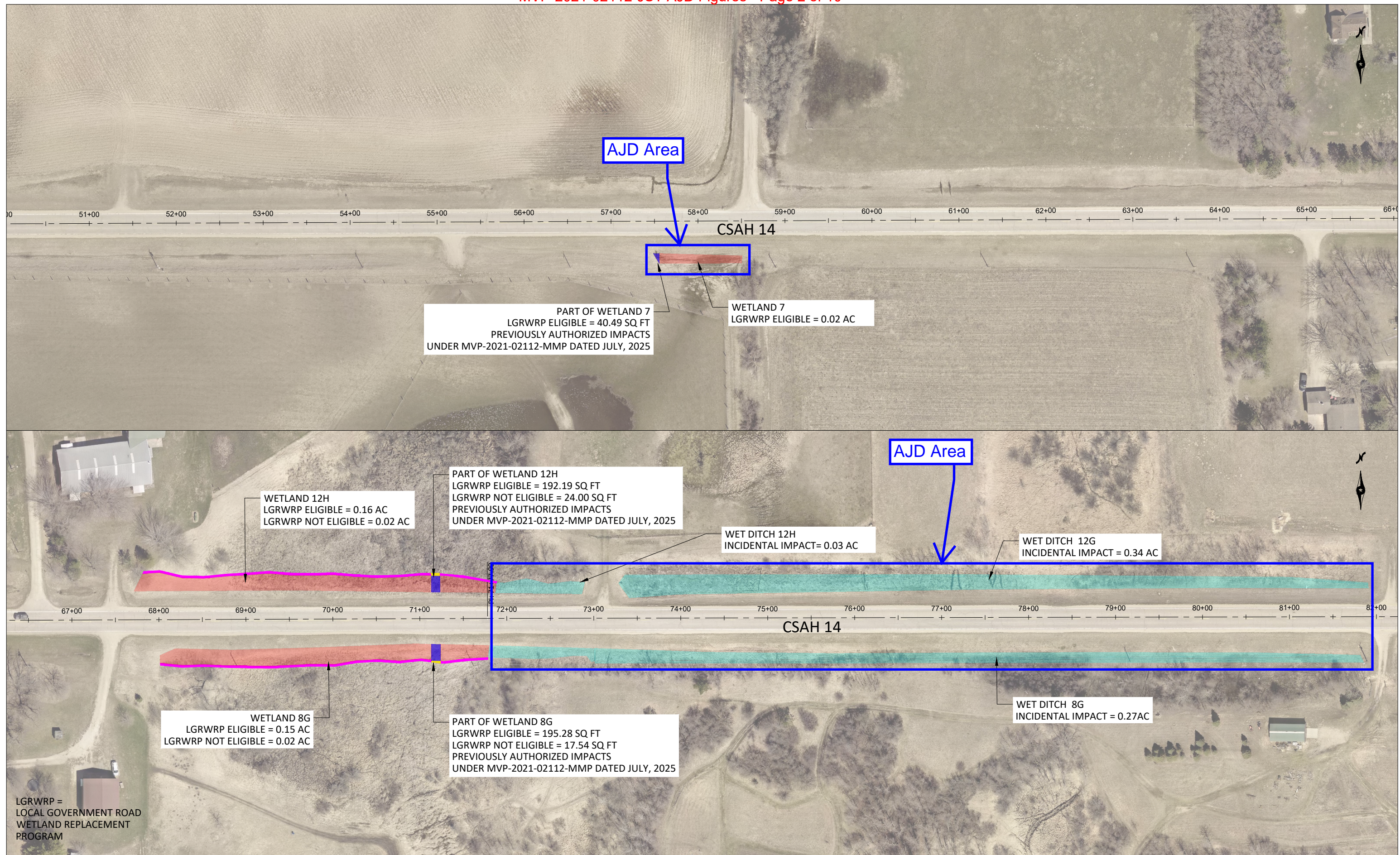
The surrounding area land use in vicinity of the subject wetlands consists of farmed fields, county roads, and woodlands. These wetlands do not physically abut any (a)(1) waters, (a)(2) impoundments, or (a)(3) tributaries. The subject aquatic resources do not have a continuous surface connection to any relatively permanent water and as such do not meet the definition of adjacent and cannot be evaluated as (a)(4) wetlands; therefore, these aquatic resources are not jurisdictional under the 2023 Revised definition of 'Waters of the United States'; Conforming" 88 FR 61964 Rule.

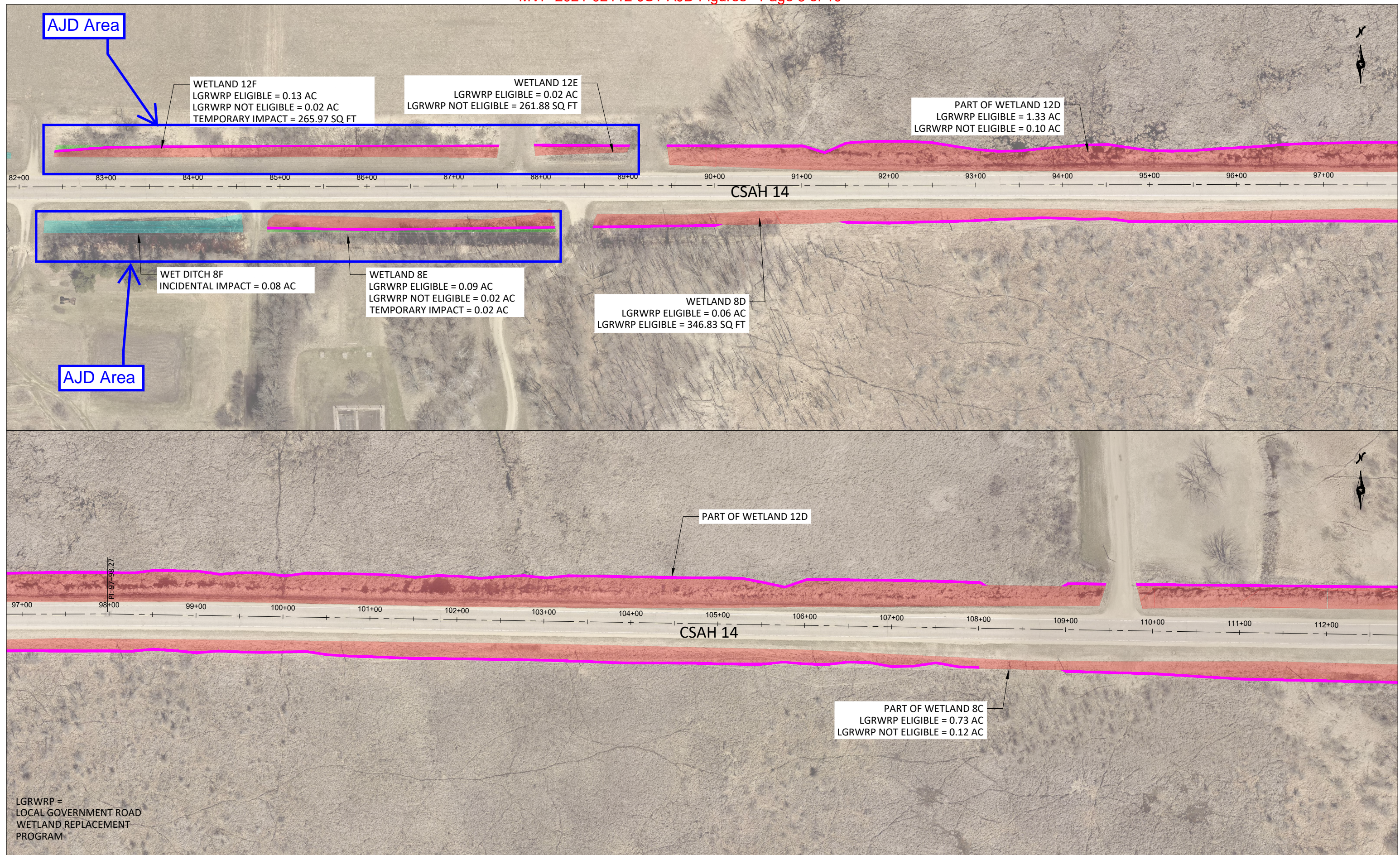
9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.
 - a. Minnesota Regulatory Viewer: 3DEP Hillshade Layer, 3DEP 2-foot contour layer, 3DEP Digital Elevation Model (DEM), NHD layers, USFWS NWI layer, USDA NRCS Soils Hydric Class layer.
 - b. Google Earth Aerial Imagery dated 2013, 2024.

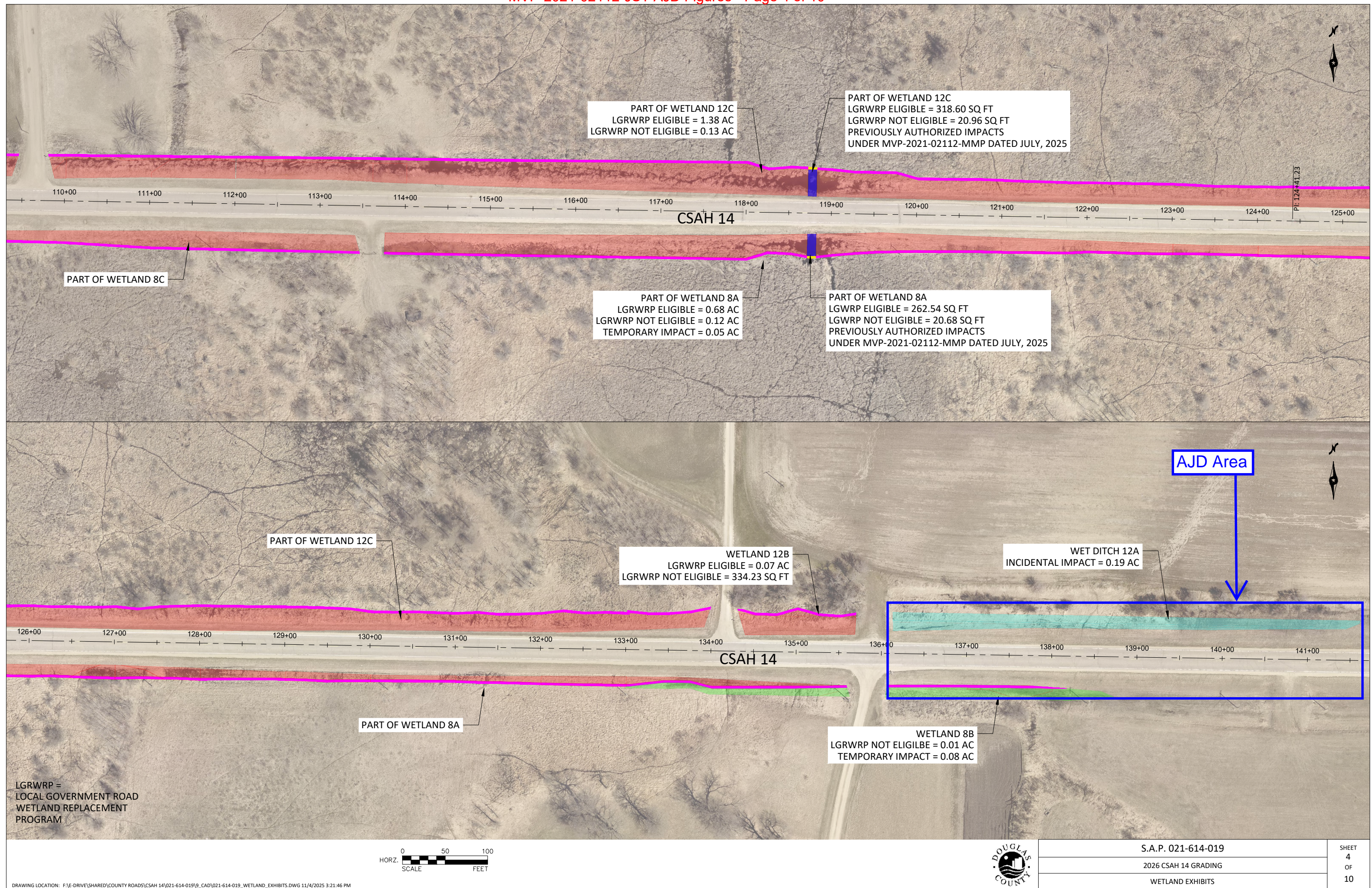
10. OTHER SUPPORTING INFORMATION. N/A

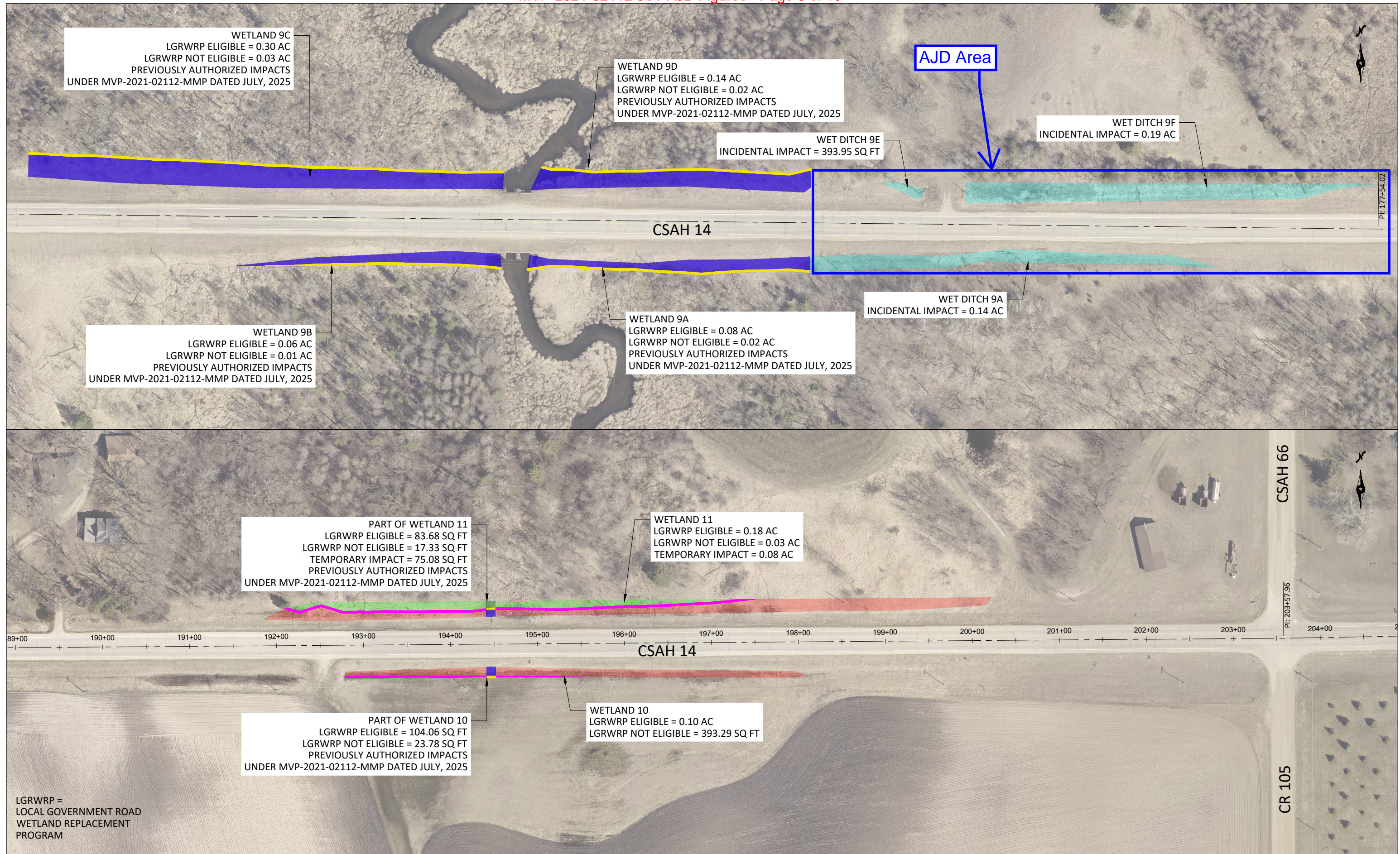
11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional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

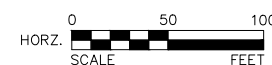
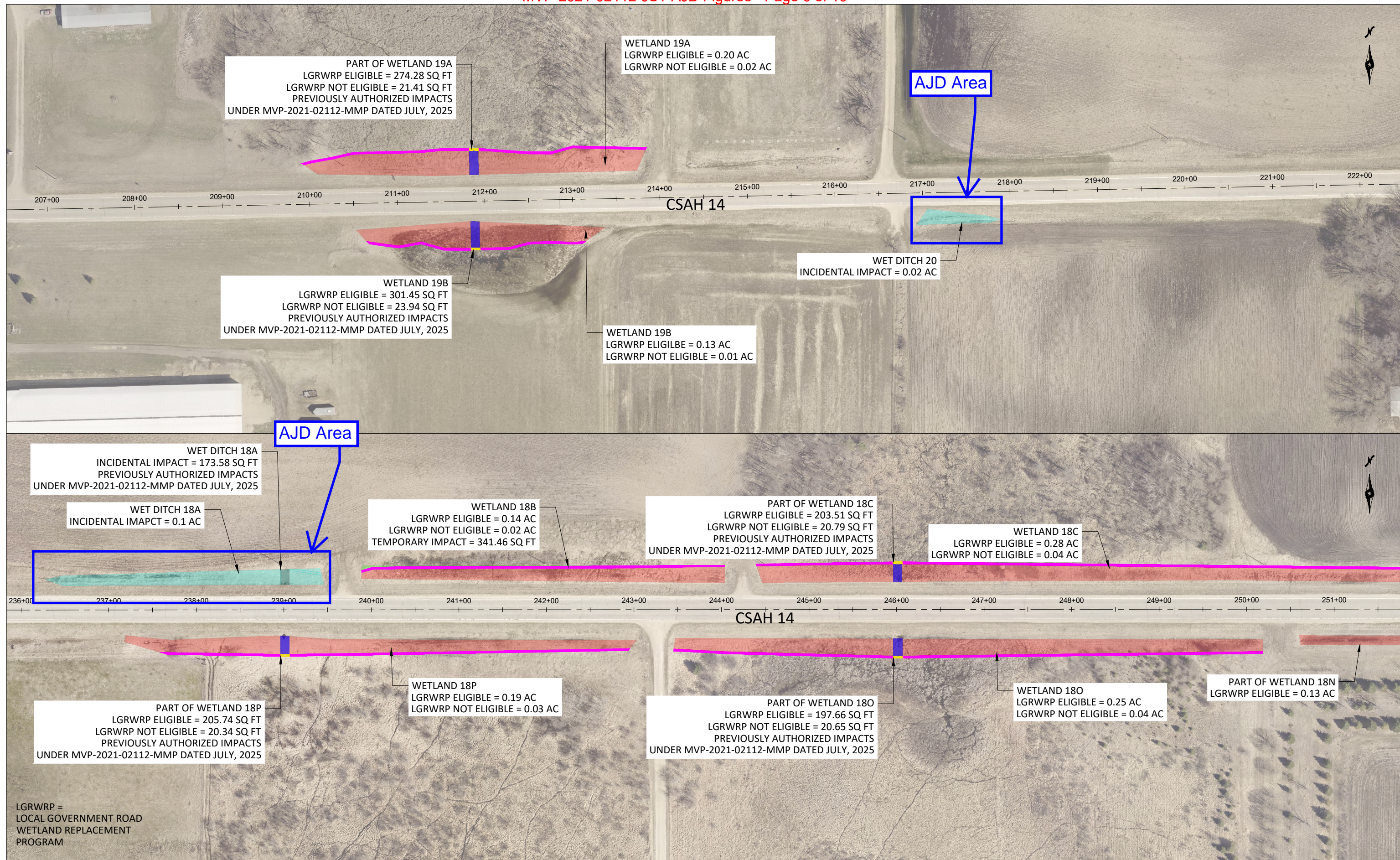


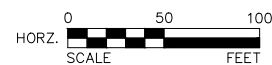
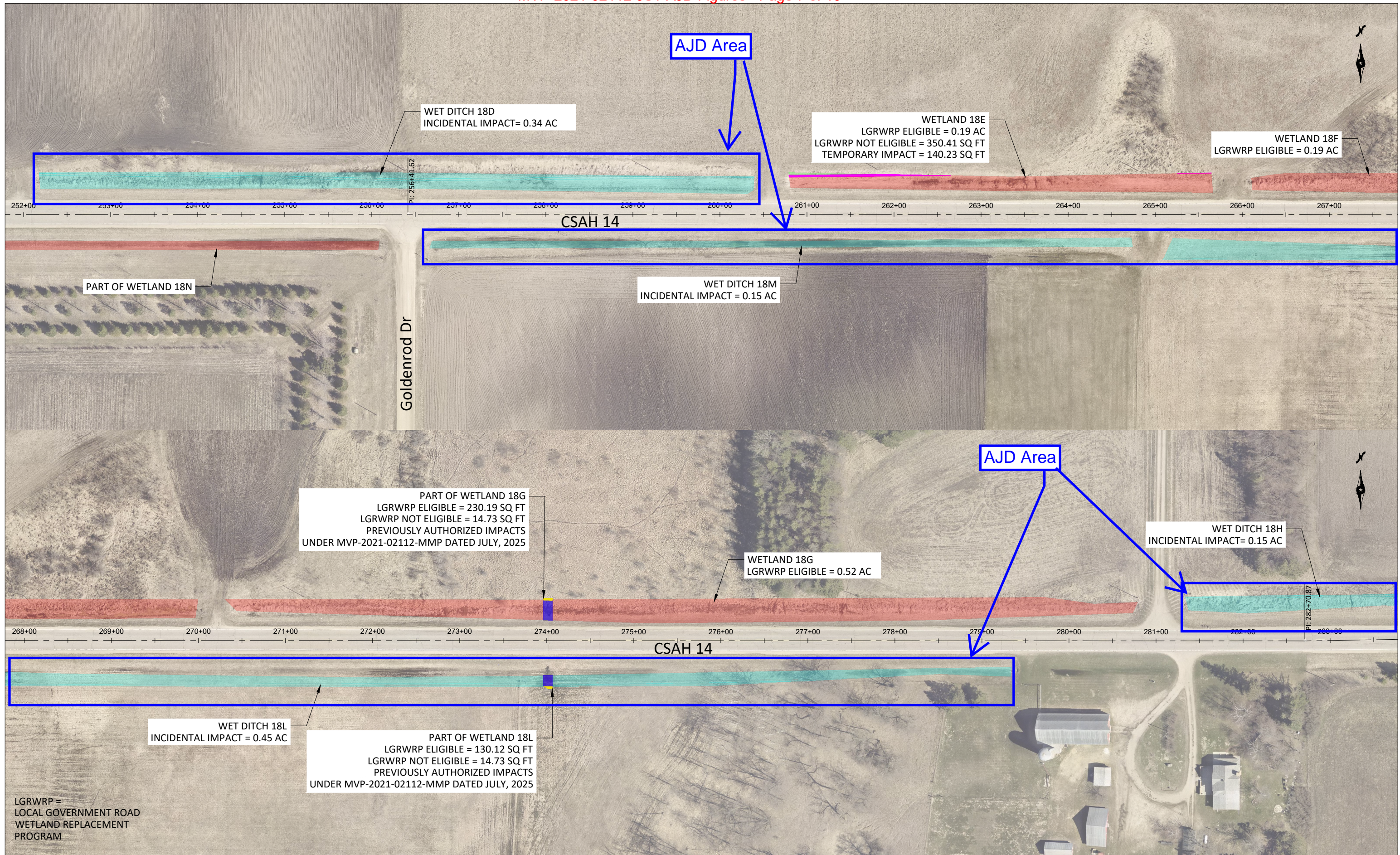










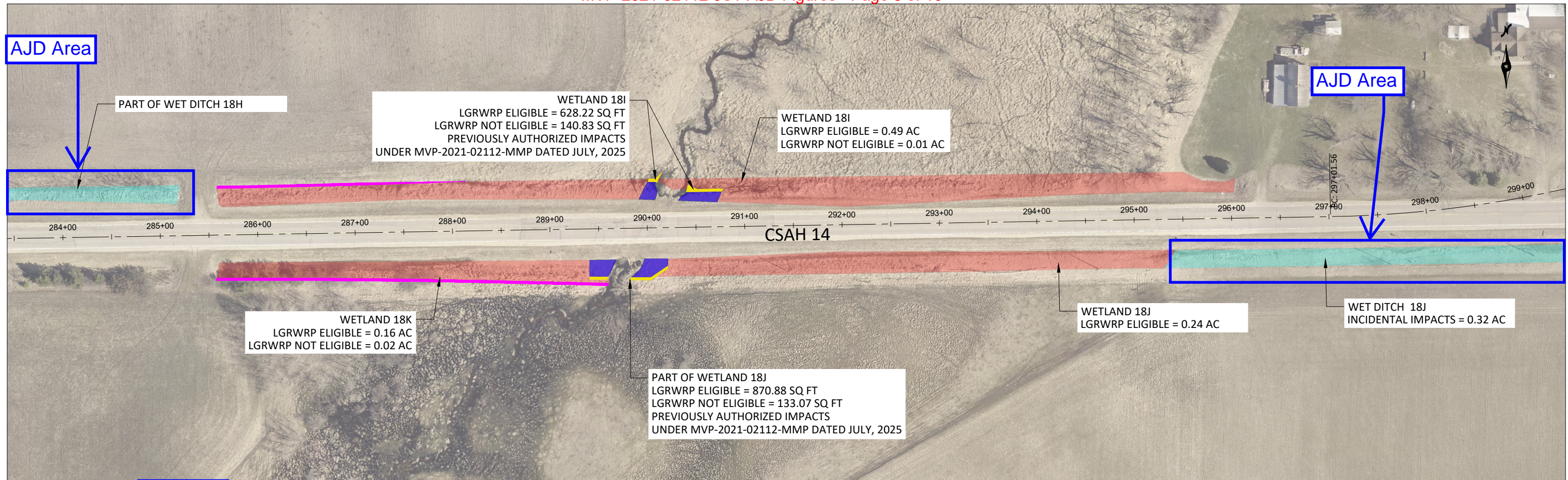


S.A.P. 021-614-019

2026 CSAH 14 GRADING

WETLAND EXHIBITS

SHEET
7
OF
10



LGRWRP =
LOCAL GOVERNMENT ROAD
WETLAND REPLACEMENT
PROGRAM

0 50 100
HORIZ. SCALE FEET

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2026 CS AH 14 GRADING

WETLAND EXHIBITS

SHEET
8
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