



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

MVP

March 6, 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-2026-00039 [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).

Name of Aquatic Resource	JD or Non-JD	Section 404/Section 10
Wetland 1	Non-Jurisdictional	Non-WOTUS
Wetland 2	Non-Jurisdictional	Non-WOTUS
Wetland 4	Non-Jurisdictional	Non-WOTUS
Wetland 6	Non-Jurisdictional	Non-WOTUS

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 for this determination includes four non-jurisdictional ditches labeled as Wetland 1, Wetland 2, Wetland 4, and Wetland 6, on the attached figures labeled as 2026-00039-TJH Figures 1 of 9 through 9 of 9. A wetland delineation was completed for this project site on August 1, 2025. The review area is located along an approximately 3.28-mile-long segment of County State Aid Highway (CSAH) 27 from CSAH 7 to CSAH 1 and adjacent lands in Sections 8, 9, 15, 16, and 17, Township 120 North, Range 36 West, Kandiyohi County, Minnesota. The approximate center coordinates of this site (in decimal degrees) are Latitude: 45.207470, Longitude: -95.195810. There are no other JDs associated with this review area.

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

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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 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

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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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).⁷

Wetland 1, Wetland 2, Wetland 4, and Wetland 6 are roadside ditches constructed in upland within the CSAH 27 right of way based on review of the wetland delineation report and desktop resources including US Geological Service 3DEP Hillshade and DEM maps; MNDNR 2-foot contour maps; MNDNR NWI Wetland Finder/NWI maps; NHD data; and NRCS hydric soil data; and aerial imagery from Google Earth Pro. Recent aerial photos do not show relatively permanent flow within the ditches. Based on the wetland delineation and desktop resources reviewed, these aquatic resources were excavated wholly in and draining only uplands and do not carry a relatively permanent flow of water and, according to exclusion (b)(3) of the 2023 Rule, as amended, are not waters of the United States.

- 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).

N/A

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. Bolton & Menk, Inc. Delineation Report, dated August 1, 2025
- b. Desktop evaluation conducted February 25, 2026
- c. USGS LiDAR, 3DEP Elevation Model, USGS TNM – National Hydrography

⁷ 88 FR 3004 (January 18, 2023)

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Dataset, USFWS NWI Maps, and USDA/NRCS Soil Survey Maps.

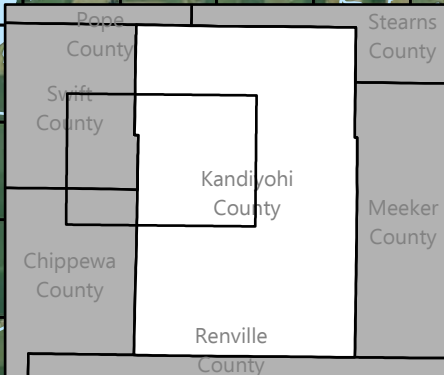
10. OTHER SUPPORTING INFORMATION. N/A

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.







Kandiyohi CSAH 27 Regrade

Kandiyohi County

Map Document: H:\KACO\25X\1389000\GIS\Proj\1389000_Wetland_Delineation.aprx | Exhibit F: Wetland Delineation Map | User: reed.fox | Date Saved: 8/15/2025 1:09 PM

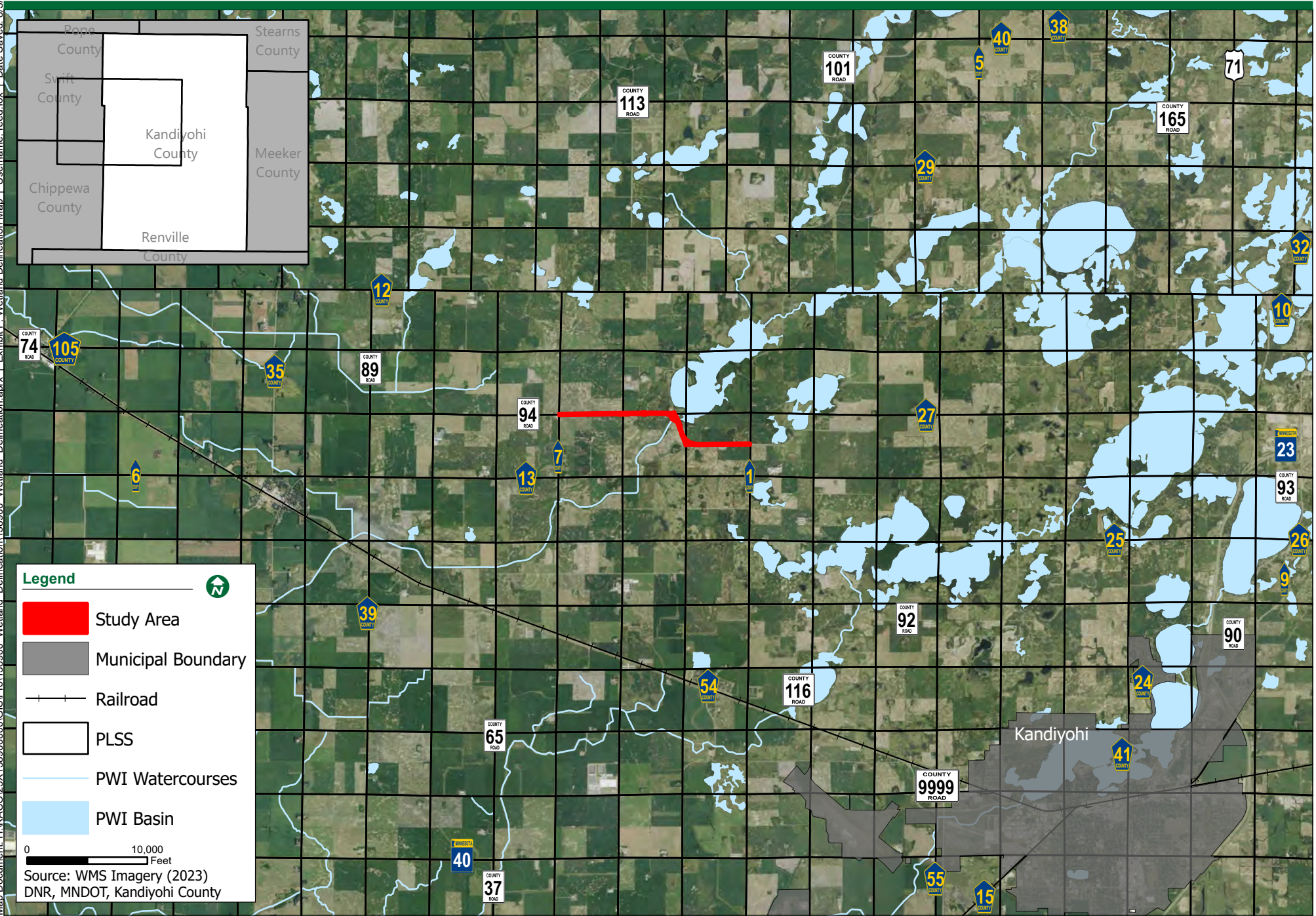


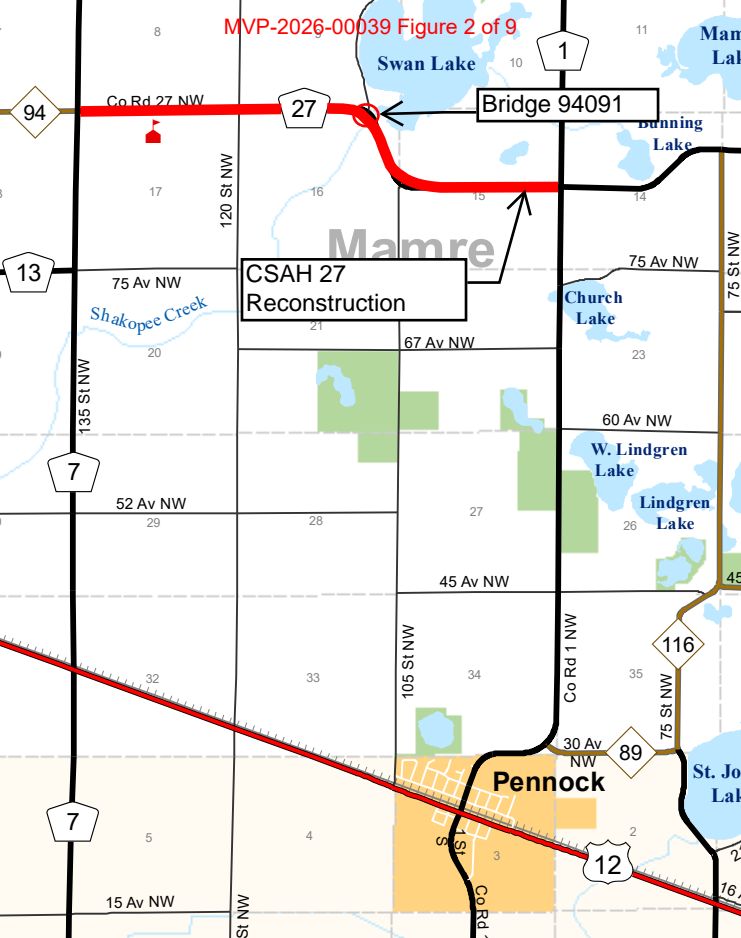
Legend

-  Study Area
-  Municipal Boundary
-  Railroad
-  PLSS
-  PWI Watercourses
-  PWI Basin

0 10,000 Feet

Source: WMS Imagery (2023)
DNR, MNDOT, Kandiyohi County





SAP 034-627-013

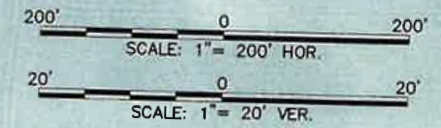
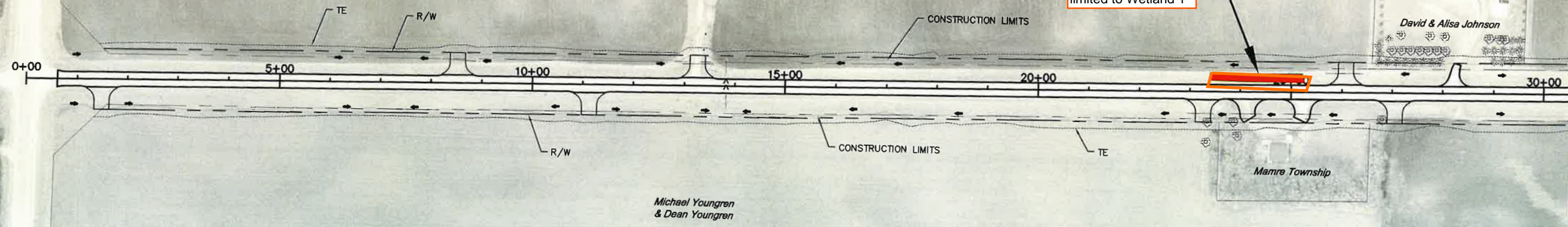


CSAH 7

WETLAND 1 IMPACTS
2/PEMB

- PERMANENT FILL - 0.06 AC
- PERMANENT CUT - 0.00 AC
- TEMPORARY FILL - 0.00 AC

AJD Review Area is limited to Wetland 1

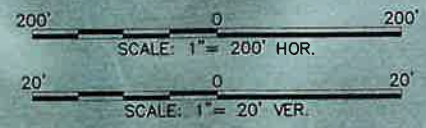


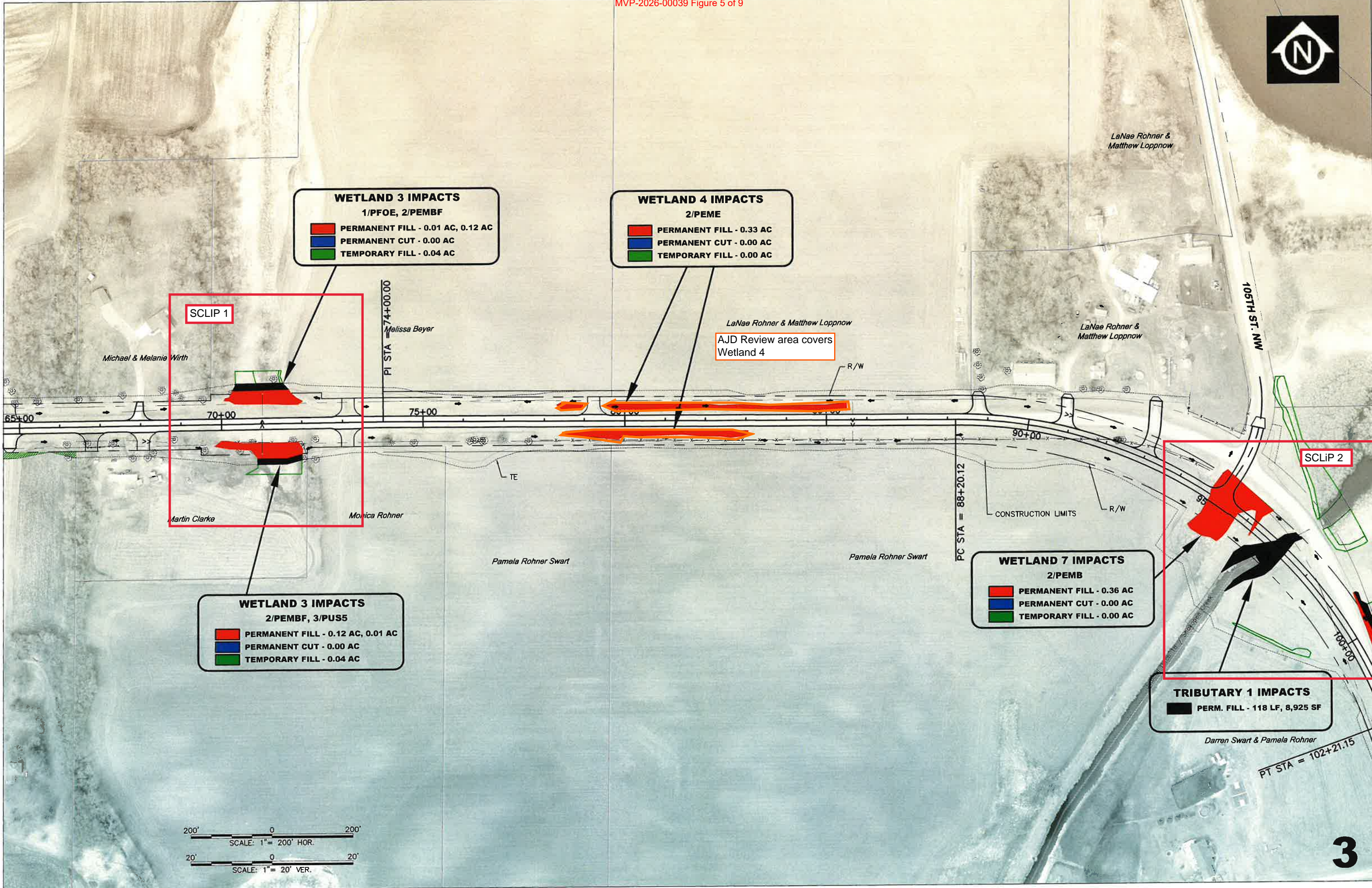


WETLAND 2 IMPACTS
2/PEME

- PERMANENT FILL - 0.11 AC
- PERMANENT CUT - 0.01 AC
- TEMPORARY FILL - 0.00 AC

AJD Review Area is limited to Wetland 2





WETLAND 3 IMPACTS
1/PFOE, 2/PEMBF

- PERMANENT FILL - 0.01 AC, 0.12 AC
- PERMANENT CUT - 0.00 AC
- TEMPORARY FILL - 0.04 AC

WETLAND 4 IMPACTS
2/PEME

- PERMANENT FILL - 0.33 AC
- PERMANENT CUT - 0.00 AC
- TEMPORARY FILL - 0.00 AC

SCLIP 1

AJD Review area covers Wetland 4

SCLIP 2

WETLAND 3 IMPACTS
2/PEMBF, 3/PUS5

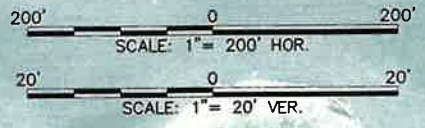
- PERMANENT FILL - 0.12 AC, 0.01 AC
- PERMANENT CUT - 0.00 AC
- TEMPORARY FILL - 0.04 AC

WETLAND 7 IMPACTS
2/PEMB

- PERMANENT FILL - 0.36 AC
- PERMANENT CUT - 0.00 AC
- TEMPORARY FILL - 0.00 AC

TRIBUTARY 1 IMPACTS

- PERM. FILL - 118 LF, 8,925 SF





WETLAND 7 IMPACTS
2/PEMB

- PERMANENT FILL - 0.36 AC
- PERMANENT CUT - 0.00 AC
- TEMPORARY FILL - 0.00 AC

WETLAND 5 IMPACTS
1/PEOE, 2/PEMBF

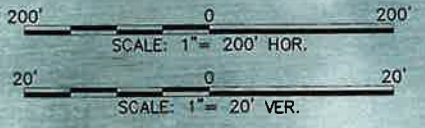
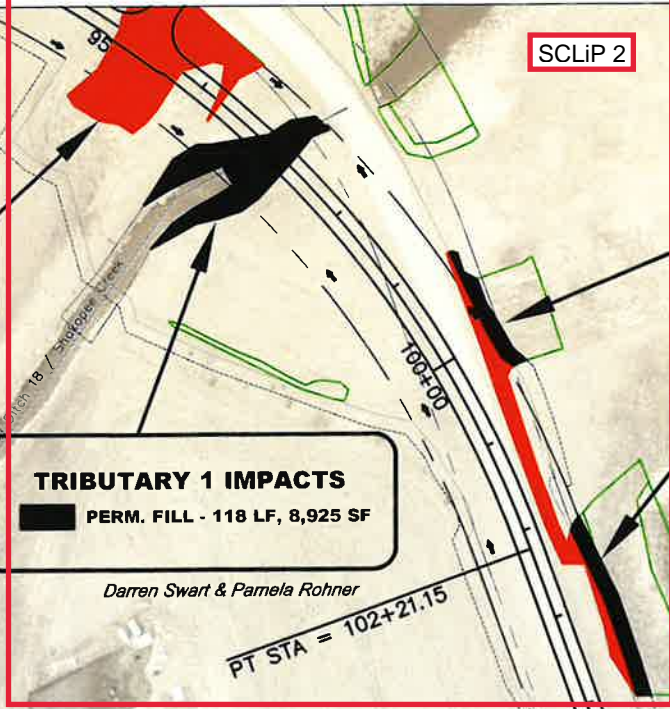
- PERMANENT FILL - 0.00 AC, 0.13 AC
- PERMANENT CUT - 0.00 AC
- TEMPORARY FILL - 0.07 AC, 0.04 AC

TRIBUTARY 1 IMPACTS

- PERM. FILL - 118 LF, 8,925 SF

WETLAND 6 IMPACTS
2/PEMB

- PERMANENT FILL - 0.16 AC
- PERMANENT CUT - 0.00 AC
- TEMPORARY FILL - 0.06 AC

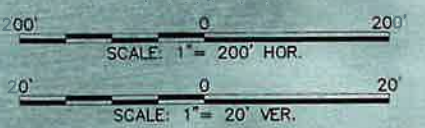
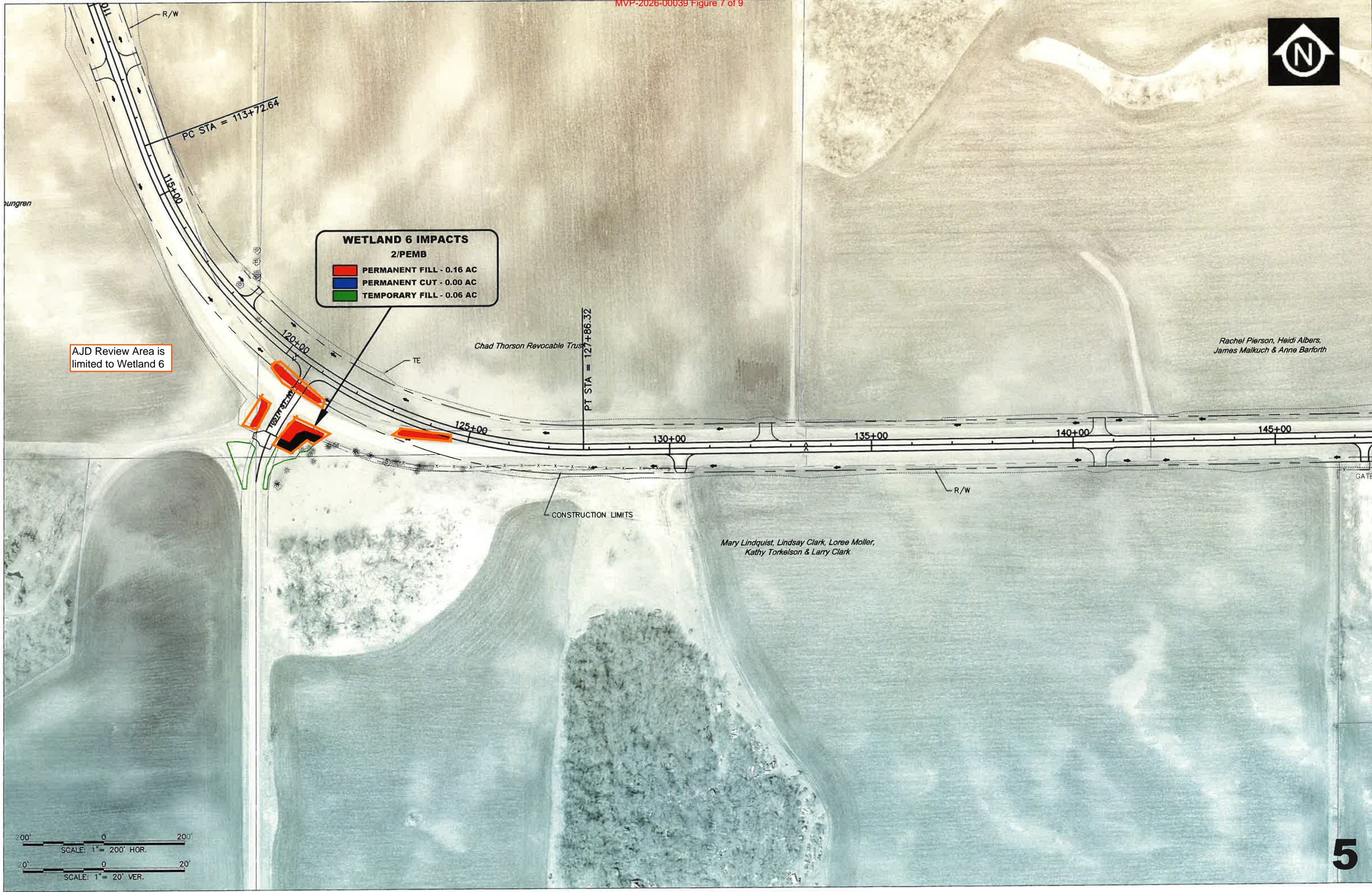


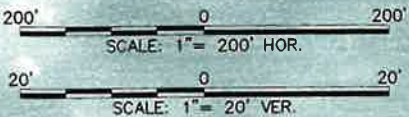


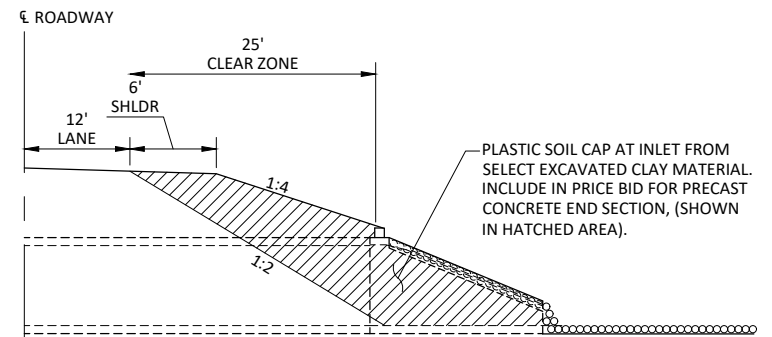
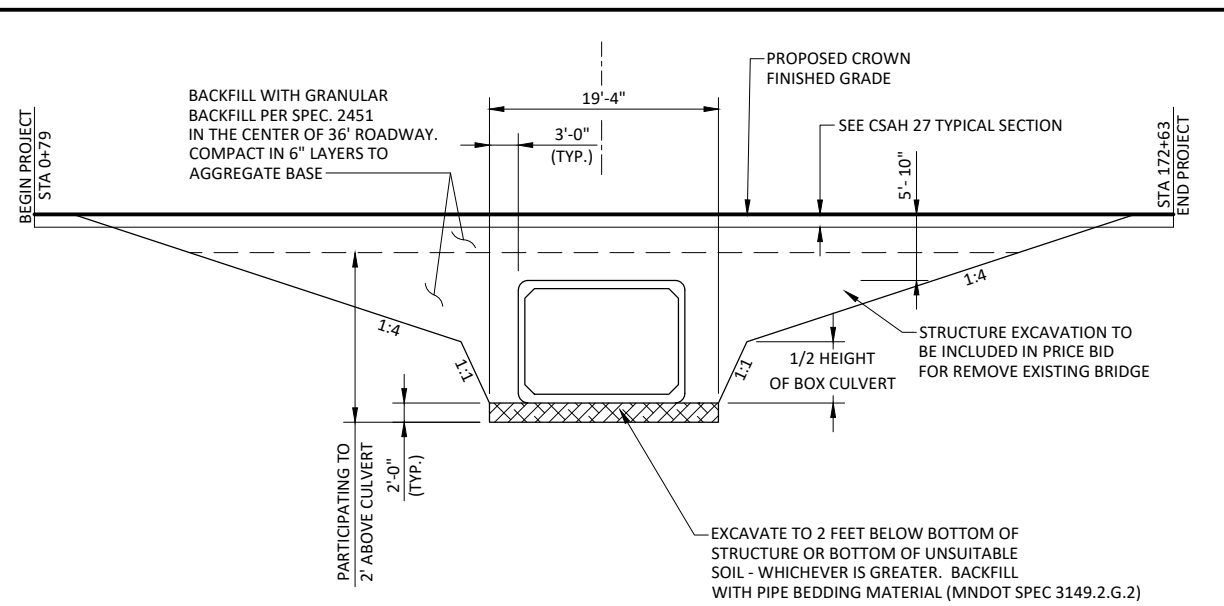
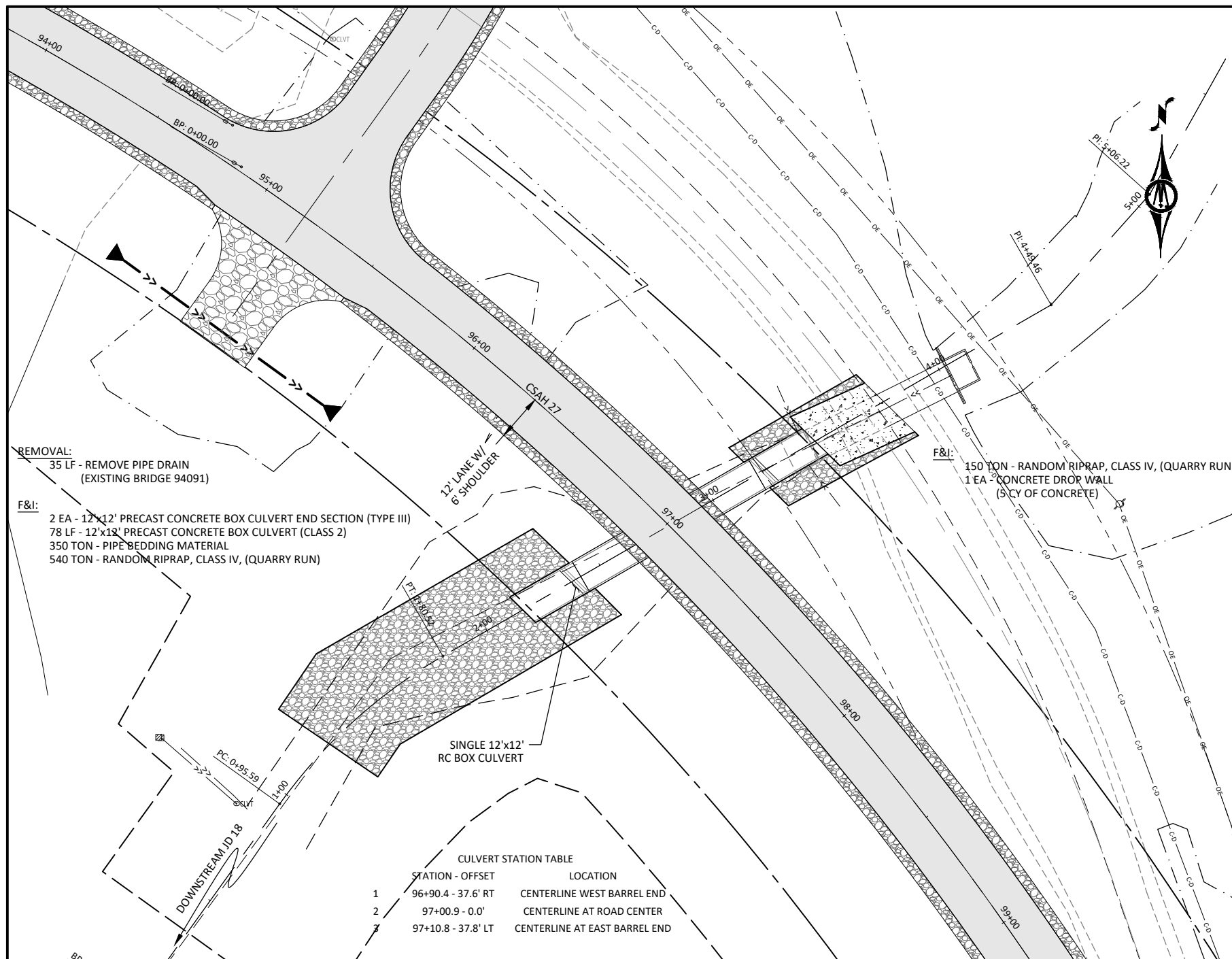
WETLAND 6 IMPACTS
2/PEMB

- PERMANENT FILL - 0.16 AC
- PERMANENT CUT - 0.00 AC
- TEMPORARY FILL - 0.06 AC

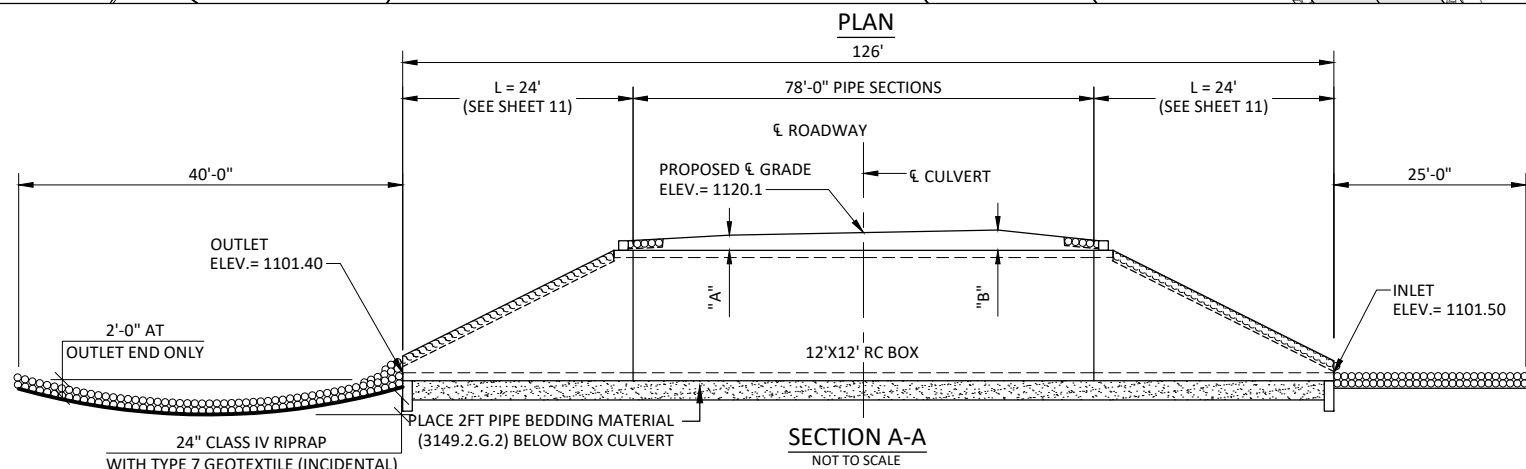
AJD Review Area is limited to Wetland 6







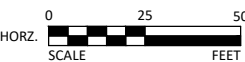
- NOTES:**
- SELECTED PLASTIC SOIL CAP TREATMENT. (MINIMUM 50% PASSING THE No. 200 SIEVE, MINIMUM 20% CLAY SIZE PARTICLES.) SHOWN HATCHED AREA.
 - WIDTH OF PLASTIC SOIL CAP:
 - FOR PLASTIC EMBANKMENT - FULL WIDTH OF THE GRANULAR TREATMENT PLUS 2ft. ON EACH END.
 - FOR GRANULAR SOIL EMBANKMENT - A MINIMUM OF ONE DIAMETER OR WIDTH OF STRUCTURE ON EITHER SIDE OF THE STRUCTURE.
 - THE TREATMENT IS REQUIRED ON THE INLET END ONLY.



DESIGN DATA	
DESIGNED IN ACCORDANCE WITH 2017 AASHTO LRFD BRIDGE DESIGN SPECIFICATIONS	
HL-93 LIVE LOAD: BARREL INSIDE WIDTH = 12' BARREL INSIDE HEIGHT = 12' BARREL LENGTH = 88' EST. MIN. FILL DEPTH "A" = 4.86' EST. MAX. FILL HEIGHT "B" = 6.69' SKEW ANGLE = 15° 7' 46"	
DESIGN SPEED = 55 MPH CURRENT ADT (2027) 540 PROJECTED ADT (2047) 1240 HL-93 LRFD: BRIDGE OPERATING RATING FACTOR RF = 1.3	

CSAH 27 BETWEEN 120TH ST AND CR 1 KANDIYOHI COUNTY	
MINNESOTA DEPARTMENT OF TRANSPORTATION	
BRIDGE No. 34J58 (REPLACE 94091) LOCATED 4,400 FEET EAST OF INTERSECTION OF 120TH ST & CSAH 27 & OVER JD 18	
1 - 12'x12' PRECAST CONCRETE BOX CULVERT 36' ROADWAY	
SECTION 16 - TOWNSHIP 120N - RANGE 36W TOWNSHIP: MAMRE COUNTY: KANDIYOHI	

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I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

Joshua J. Halvorson
JOSHUA J. HALVORSON
LIC. NO. 46291 DATE 02/16/2026



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WILLMAR, MN 56201
Phone: (320) 231-3956
Email: Willmar@bolton-menk.com
www.bolton-menk.com



DESIGNED	NO.	ISSUED FOR	DATE
DTI	0	BID	02/16/2026
DRAWN	LRV		
CHECKED	JJH		
CLIENT PROJ. NO.	25X.138900.000		

KANDIYOHI COUNTY
CSAH 27 - REGRADING SAP 034-627-013
BRIDGE NO. 34J58 PLANS
GENERAL PLAN & PROFILE

SHEET
123
OF
129