



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

MVP

22 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) ,<sup>1</sup> [MVP-2012-03042-PJH 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.

1. SUMMARY OF CONCLUSIONS.

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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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- 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 1a is an approximately 0.05-acre depressional ditch basin that is non-jurisdictional.
  - ii. Wetland 1b is an approximately 0.02-acre depressional ditch basin that is non-jurisdictional.
  - iii. Wetland 1c is an approximately 89 square foot depressional ditch basin that is non-jurisdictional.
  - iv. Wetland 1d is an approximately 0.01-acre depressional ditch basin that is non-jurisdictional.
  - v. Wetland 1e is an approximately 0.06-acre depressional ditch basin that is non-jurisdictional.
  - vi. Wetland 1f is an approximately 0.07-acre depressional ditch basin that is non-jurisdictional.
  - vii. Wetland 2 is an approximately 39 square foot depressional ditch basin that is non-jurisdictional.
  - viii. Wetland 3a is an approximately 0.01-acre depressional ditch basin that is non-jurisdictional.
  - ix. Wetland 3b is an approximately 0.01-acre depressional ditch basin that is non-jurisdictional.
  - x. Wetland 3c is an approximately 197 square foot depressional ditch basin that is non-jurisdictional.
  - xi. Wetland 5a is an approximately 0.08-acre depressional ditch basin that is non-jurisdictional.
  - xii. Wetland 5b is an approximately 0.01-acre depressional ditch basin that is non-jurisdictional.
  - xiii. Wetland 5c is an approximately 0.08-acre depressional ditch basin that is non-jurisdictional.

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- xiv. Wetland 6 is an approximately 153 square foot depressional ditch basin that is non-jurisdictional.
- xv. Wetland 7a is an approximately 217 square foot depressional ditch basin that is non-jurisdictional.
- xvi. Wetland 7b is an approximately 0.01-acre depressional ditch basin that is non-jurisdictional.
- xvii. Wetland 7c is an approximately 0.02-acre depressional ditch basin that is non-jurisdictional.
- xviii. Wetland 7d is an approximately 0.08-acre depressional ditch basin that is non-jurisdictional.
- xix. Wetland 8a is an approximately 111 square foot depressional ditch basin that is non-jurisdictional.
- xx. Wetland 8b is an approximately 0.03-acre depressional ditch basin that is non-jurisdictional.
- xxi. Wetland 9 is an approximately 0.18-acre depressional ditch basin that is 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.

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The subject aquatic resources are located within multiple review areas and are identified by the blue and purple cross-hatched polygons and associated labels seen on the figures labeled MVP-2012-03042-PJH AJD Pages 2 through 5. The review area is located in Georgetown, Clay County, Minnesota. Center coordinates range from 47.085397°, -96.796056° (Wetland 3a) to 47.079379°, -96.786850° (Wetland 7d). The review areas are located in Sections 29, 30, 31, and 32, Township 142 North, Range 48 West. No previous jurisdictional determinations have been completed in 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. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER.

N/A

6. SECTION 10 JURISDICTIONAL WATERS<sup>5</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>6</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

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<sup>5</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>6</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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“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](#)

## 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).<sup>7</sup>

[N/A](#)

- 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).

[Wetland 1a, Wetland 1b, Wetland 1c, Wetland 1d, Wetland 1e, Wetland 1f, Wetland 2, Wetland 3a, Wetland 3b, Wetland 3c, Wetland 5a, Wetland 5b,](#)

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<sup>7</sup> 88 FR 3004 (January 18, 2023)

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Wetland 5c, Wetland 6, Wetland 7a, Wetland 7b, Wetland 7c, Wetland 7d, Wetland 8a, Wetland 8b, and Wetland 9 are depressional ditch basins that are non-jurisdictional. The wetlands can be seen on the figures labeled MVP-2012-03042-PJH AJD Pages 2 through 5. The wetlands are not Traditional Navigable Waters (TNWs), territorial seas, or interstate waters, therefore, are not (a)(1) waters. The wetlands do not physically abut relatively permanent (a)(2) impoundments or jurisdictional (a)(3) tributaries. The closest tributary to the subject aquatic resources is the Buffalo River. The Buffalo River is located approximately 0.03 miles south of Wetland 7d (nearest wetland). The subject aquatic resources do not have a continuous surface connection (CSC) to the Buffalo River or any other jurisdictional waters. Aerial imagery, the National Hydrography Dataset (NHD) and National Wetland Inventory (NWI) support this determination. The wetlands appear to be man-made wetlands that were constructed in historically upland areas. The wetlands appear to have been created during the construction of County Road 100, County Road 75, Highway 34, and the City of Georgetown's flood control ring levee system. The depressional ditch basins appear to collect surface water runoff from adjacent roadways, agricultural fields, and the ring levee system following precipitation events. The wetlands are non-tidal wetlands that do not have a CSC to relatively permanent jurisdictional waters, and as such do not meet the definition of adjacent and cannot be evaluated as (a)(4) adjacent wetlands; therefore, they are not jurisdictional 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. Multiple office evaluations conducted September 24, 2025 – January 15, 2026
  - b. Aquatic Resources Delineation Report dated March 14, 2025
  - c. Aerial Imagery: Google Earth Pro, MN NAIP 2019, MN NAIP 2019-CIR, 1939 Historic Imagery, 1948 Historic Imagery, Clay County GIS
  - d. LiDAR: MNDNR Hillshade – 2016, 3DEP Hillshade
  - e. 3DEP Digital Elevation Model (DEM), 3DEP Slope, MN Contours – 2 ft
  - f. National Wetland Inventory (NWI), National Hydrography Dataset (NHD)

10. OTHER SUPPORTING INFORMATION.

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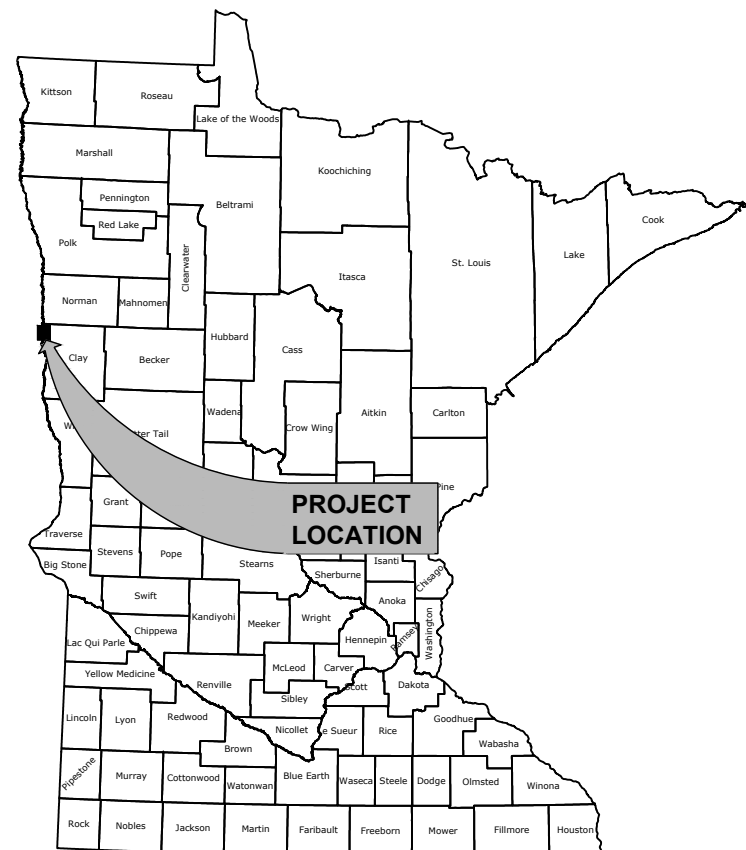
This approved jurisdictional determination is associated with a proposed project to improve an existing ring levee system in the City of Georgetown, Minnesota. The project would also involve raising roadways within the city to allow for passive flood control. Impacted wet ditches would be redeveloped in new areas to negate any functional losses resulting from the project (ditches would be shifted).

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.

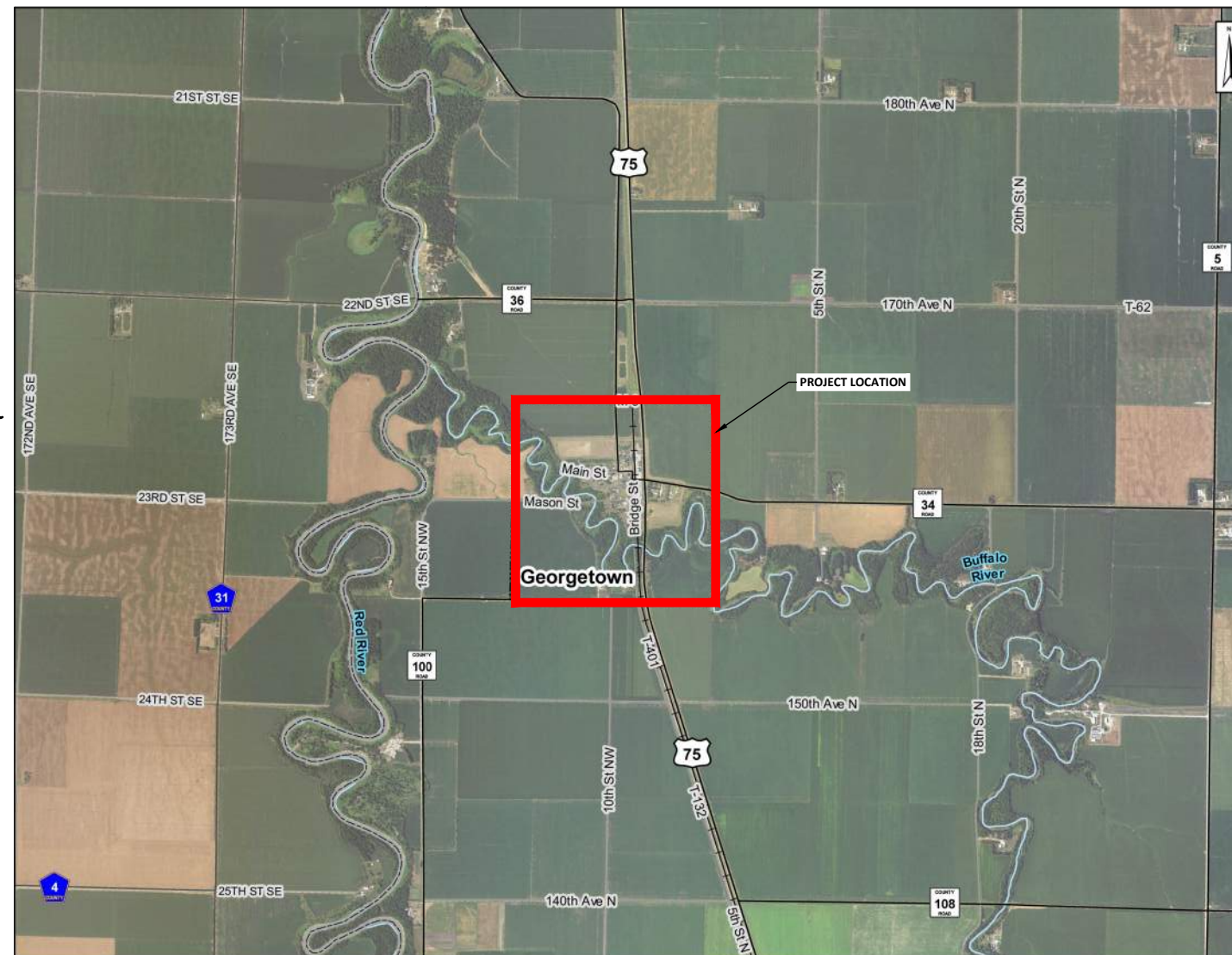
# CONSTRUCTION PLANS FOR CITY OF GEORGETOWN FLOOD CONTROL BUFFALO-RED RIVER WATERSHED DISTRICT

GEORGETOWN, MN  
FEBRUARY, 2025

**PRELIMINARY**



**VICINITY MAP**

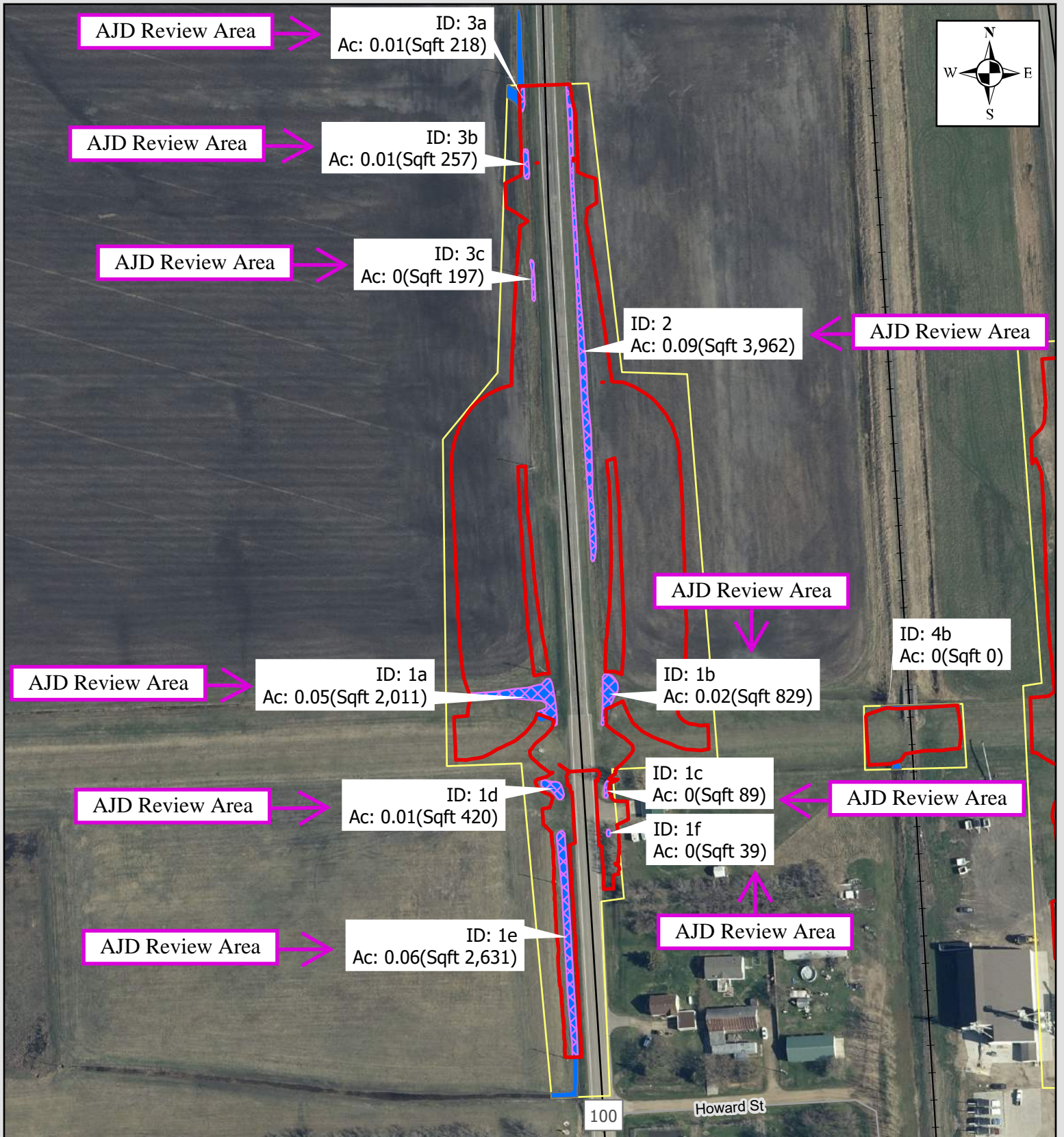


**LOCATION MAP**

**INDEX OF DRAWINGS:**

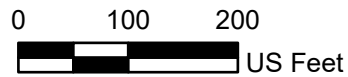
<b>CIVIL SHEETS</b>	
C1.0	COVER SHEET
C2.0	CONSTRUCTION NOTES
C3.0	GENERAL SITE PLAN
C4.0	DEMOLITION PLAN DRAWING REFERENCE
C4.1-C4.7	DEMOLITION PLAN
C4.8	DEMOLITION PLAN - SE LIFT STATION
C4.9	DEMOLITION PLAN - NW LIFT STATION
C4.10	DEMOLITION PLAN - GATEWELL
C5.0-C5.5	TYPICAL SECTION
C6.0	LEVEE PLAN AND PROFILE DRAWING REFERENCE
C6.1-C6.10	LEVEE PLAN AND PROFILE
C7.0	DRAINAGE PLAN AND PROFILE DRAWING REFERENCE
C7.1-C7.6	DRAINAGE PLAN AND PROFILE
C8.0	PAVING PLAN AND PROFILE DRAWING REFERENCE
C8.1-C8.5	PAVING PLAN AND PROFILE
C9.0	GUARDRAIL LAYOUT
C9.1-C9.10	GUARDRAIL DETAILS
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C12.0-C12.1	PHASE 1 TRAFFIC CONTROL
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C13.0-C13.4	SECTION VIEWS - CSAH 34
C13.5-C13.10	SECTION VIEWS - TH 75 NORTH
C13.11-C13.17	SECTION VIEWS - TH 75 SOUTH
C13.18-C13.23	SECTION VIEWS - CSAH 100
C14.0-C14.2	DETAILS
C15.0	SWPPP DRAWING REFERENCE
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<b>STRUCTURAL SHEETS</b>	
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S1.5-S1.8	SE LIFT STATION
S1.9	GATEWELL PLAN VIEWS
S1.10	GATEWELL ELEVATION VIEWS
<b>PROCESS SHEETS</b>	
P1.0	PROCESS EQUIPMENT SCHEDULE
P1.1-P1.4	NW LIFT STATION
P1.5-P1.8	SE LIFT STATION
P1.14	PROCESS DETAILS

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**Exhibit 2: Impact Map**

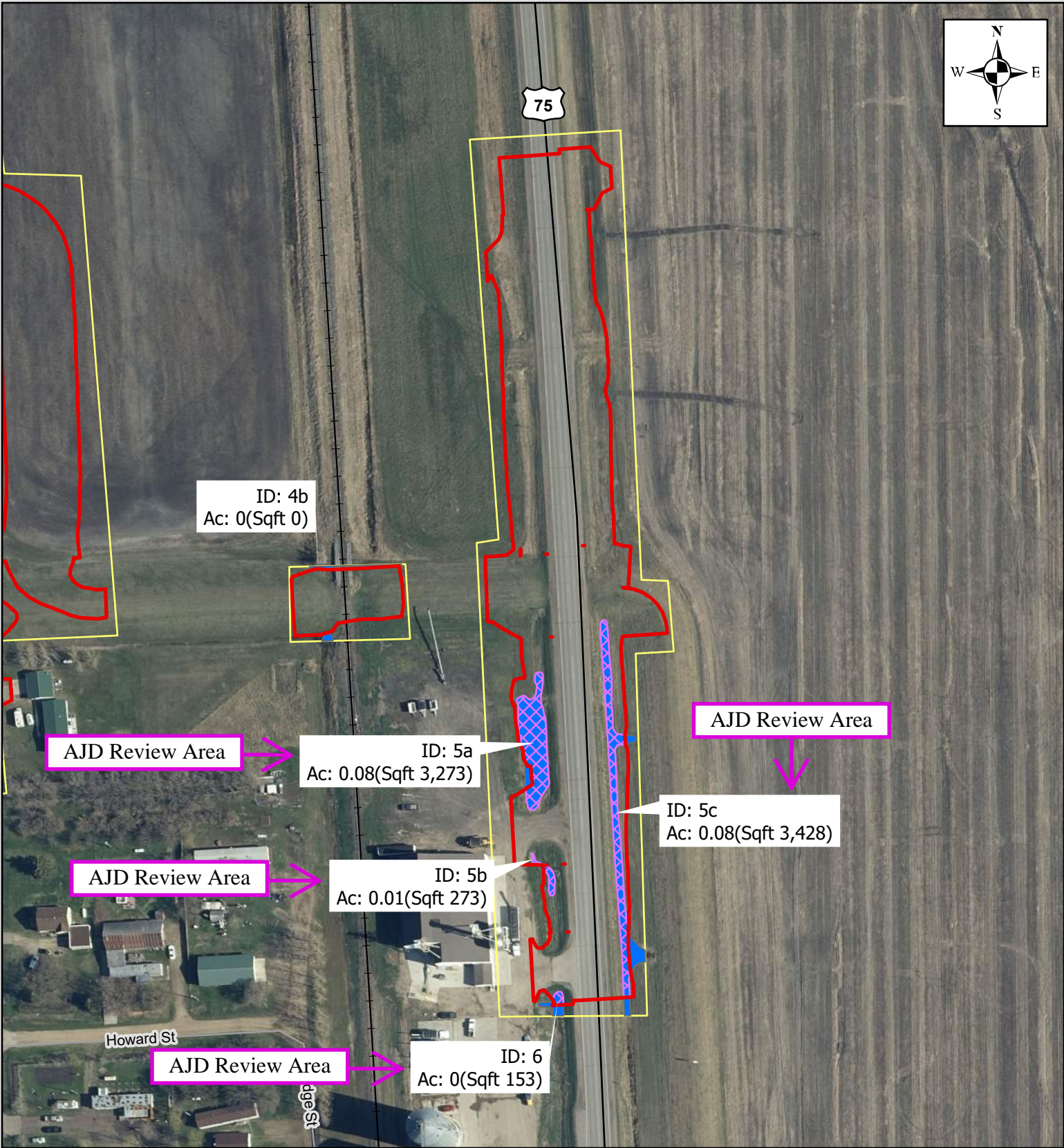
Grade Raise Project  
Georgetown, Minnesota



Spatial Reference  
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Datum: North American 1983 HARN  
Projection: Transverse Mercator

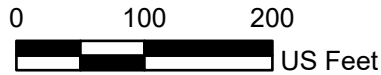
**Legend**

- Survey Area
- Impacts
- Wetlands
- Grading
- Interstate
- US Highway
- State Highway
- County Roads
- Railroad
- Other Roads



**Exhibit 2: Impact Map**

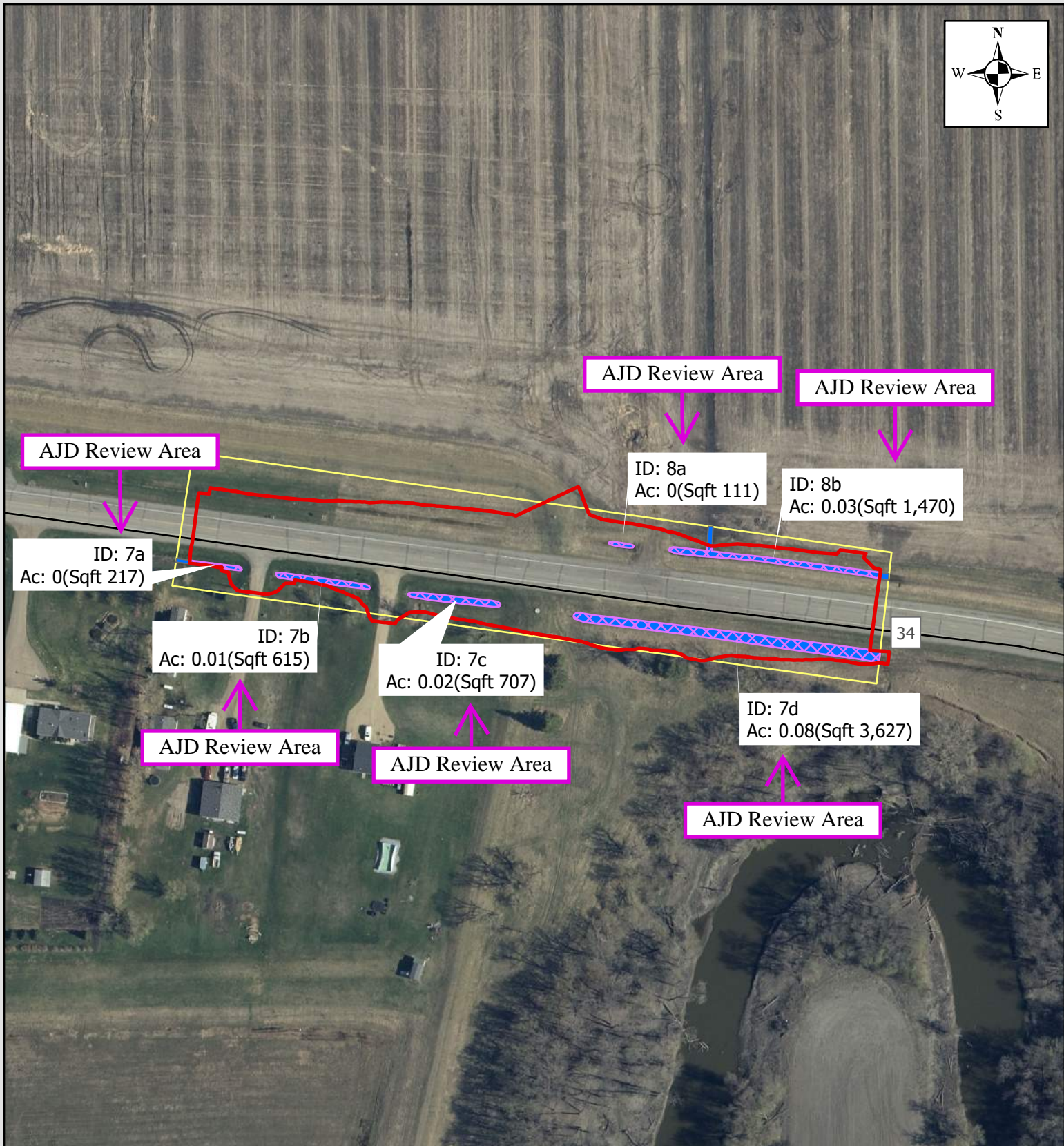
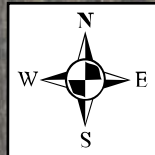
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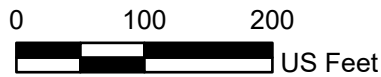
**Legend**

- |             |               |
|-------------|---------------|
| Survey Area | US Highway    |
| Impacts     | State Highway |
| Wetlands    | County Roads  |
| Grading     | Railroad      |
| Interstate  | Other Roads   |



**Exhibit 2: Impact Map**

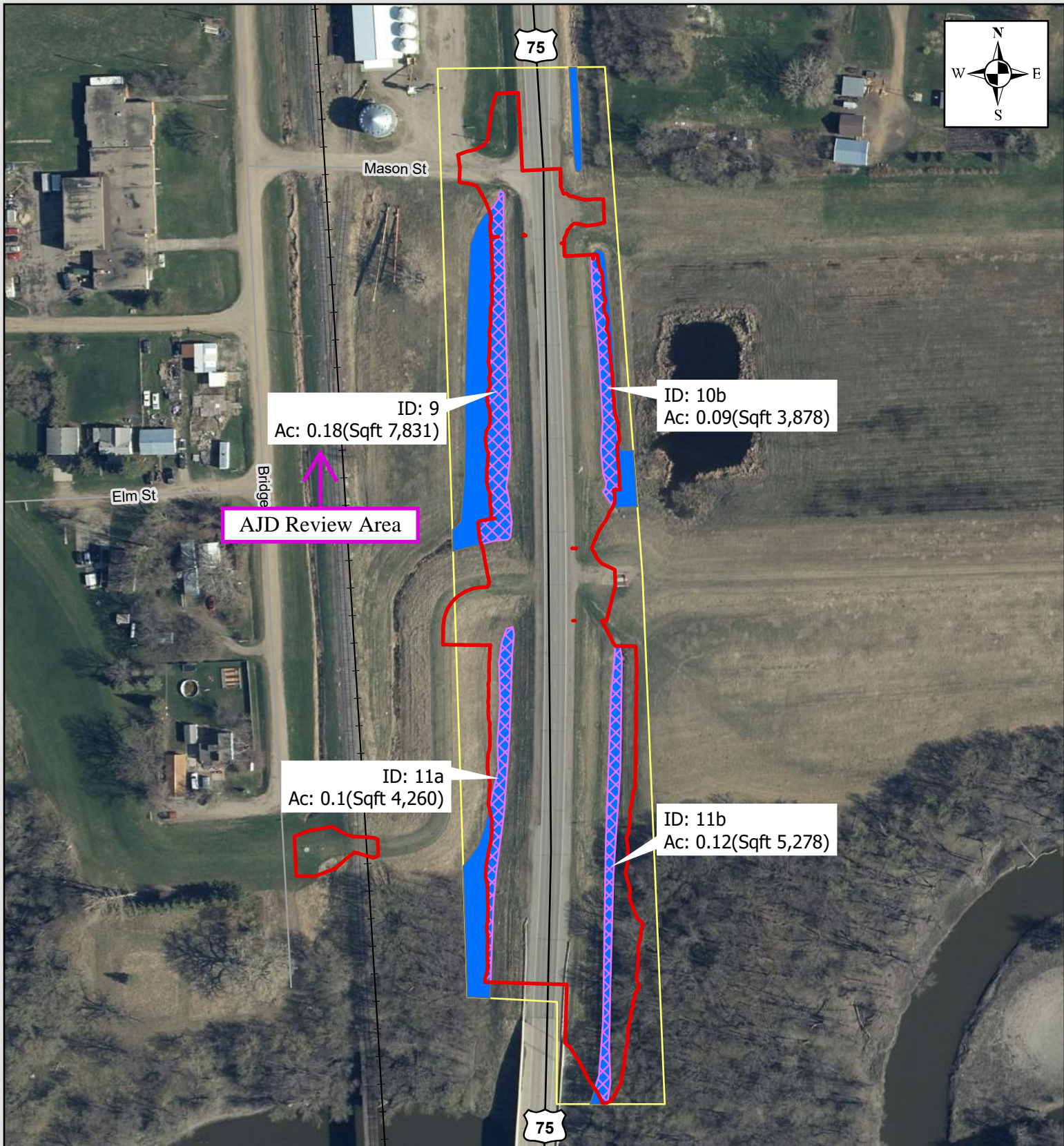
Grade Raise Project  
Georgetown, Minnesota



Spatial Reference  
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Projection: Transverse Mercator

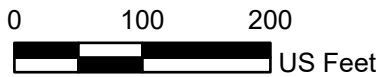
**Legend**

- |             |               |
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| Survey Area | US Highway    |
| Impacts     | State Highway |
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| Interstate  | Other Roads   |



**Exhibit 2: Impact Map**

Grade Raise Project  
Georgetown, Minnesota



Spatial Reference  
Name: NAD 1983 HARN Adj MN Clay Feet  
Datum: North American 1983 HARN  
Projection: Transverse Mercator

**Legend**

- Survey Area
- Impacts
- Wetlands
- Grading
- Interstate
- US Highway
- State Highway
- County Roads
- Railroad
- Other Roads