



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

CEMVP-RD

6 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),¹ MVP-2025-00572, MFR 1 of 1.²

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*”).

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 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.

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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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. Pond A (0.47 acres); non-jurisdictional
 - ii. Wetland A (0.14 acres); non-jurisdictional
 - iii. Wetland B (0.0.09 acres); non-jurisdictional
 - iv. Wetland C (0.04 acres); 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 Corps review area is 6.5-acres located on the Nakoma Golf Club site at 4145 Country Club Road, City of Madison, Dane County, WI (Lat: 43.044540, Long: -89.437654) in Section 33, Township 7 North, Range 9 East and is shown on the enclosed figures labeled 2025-00572 AJD Figures, Pages 1 to 8.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. N/A⁶

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.

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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 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
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

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.

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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).

Pond A (0.47 acres) was identified in the Indigo Ecological Design, LLC Wetland and Waterway Delineation Report dated October 20, 2025. Ponds A was constructed between 1995 and 2000, Through the years, Pond A has been highly manipulated and managed by the golf course (size changes, location changes, and shoreline adjustments). Pond A is an artificially constructed pond constructed in uplands. There is a culvert that acts as water level control and assists with overflow from Pond A, then goes underground to the northeast towards its outlet. The culvert does not have an OHWM and does not allow a continuous surface connection or relatively permanent flow from Pond A to its outlet. Accordingly, the Corps has determined that Pond A is excluded from Section 404 jurisdiction under (b)(6) of the 2023 Revised Definition of ‘Waters of the United States’; Conforming” 88 FR 61964 Final Rule as Artificial reflecting/swimming/ornamental pools; created by excavating or diking dry land to retain water for primarily aesthetic reasons.

Wetlands A and B were identified in the Indigo Ecological Design, LLC Wetland and Waterway Delineation Report dated October 20, 2025. Wetland A is located around the perimeter of Pond A and wetland B is located just west of Pond A. These wetlands developed as a result of the construction of Pond A. Pond A was constructed between 1995 and 2000 and receives stormwater drainage and groundwater discharge. Since 2000, Pond A has been highly manipulated and managed by the golf course. These wetlands are located in small water filled depressions that occurred from the creation and/or manipulation of Pond A. Accordingly, the Corps has determined that Wetlands A and B are excluded from Section 404 jurisdiction under (b)(7) of the 2023 Revised Definition of ‘Waters of the United States’; Conforming” 88 FR 61964 Final Rule as Waterfilled depressions created in dry land incidental to construction activity and pits excavated in dry land, until abandoned.

- 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

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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 C was identified in the Indigo Ecological Design, LLC Wetland and Waterway Delineation Report dated October 20, 2025. Wetland C is located just west of Pond A. W1 is not a TNW, territorial seas, or interstate waters and therefore is not an (a)(1) water. Based on a review of the National Hydrography Dataset (NHD) the nearest waterway is an unnamed tributary (WBIC 5035928) to the Wolf River located 0.07 miles north. WBIC 5035928 is a mapped linear watercourse which resembles a man-made ditch. The Wisconsin Wetland Inventory (WWI) shows no mapped wetlands within the review area and the closest mapped wetland is approximately 0.08 miles north. A review of aerial photography (1980-2025) shows that Wetland C extends has no surface connection to WBIC 5021802. Based on this information Wetland C is a concave feature with no surface connection to the nearest RPW or TNW. Wetland C does not physically abut a relatively permanent paragraph (a)(2) impoundment or a jurisdictional (a)(3) tributary. Wetland C is a non-tidal wetland that lacks a continuous surface connection to a relatively permanent water and as such does not meet the definition of adjacent and cannot be evaluated as (a)(4) an adjacent wetland; therefore, Wetland C is 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. Indigo Ecological Design, LLC Wetland and Waterway Delineation Report dated October 20, 2025.
 - b. USACE National Regulatory Viewer Accessed: December 19, 2025.
 - c. WDNR - Surface Water Data Viewer Accessed: December 19, 2025.
 - d. Google Earth Imagery Accessed: December 19, 2025 (1992-2025).
 - e. Wisconsin Wetland Inventory, USDA Web Soil Survey, and USGS NHD and Topographic Maps Accessed: December 19, 2025.
 - f. USGS 1:24K Quad Name: Madison West
 - g. Office evaluation conducted on: December 19, 2025

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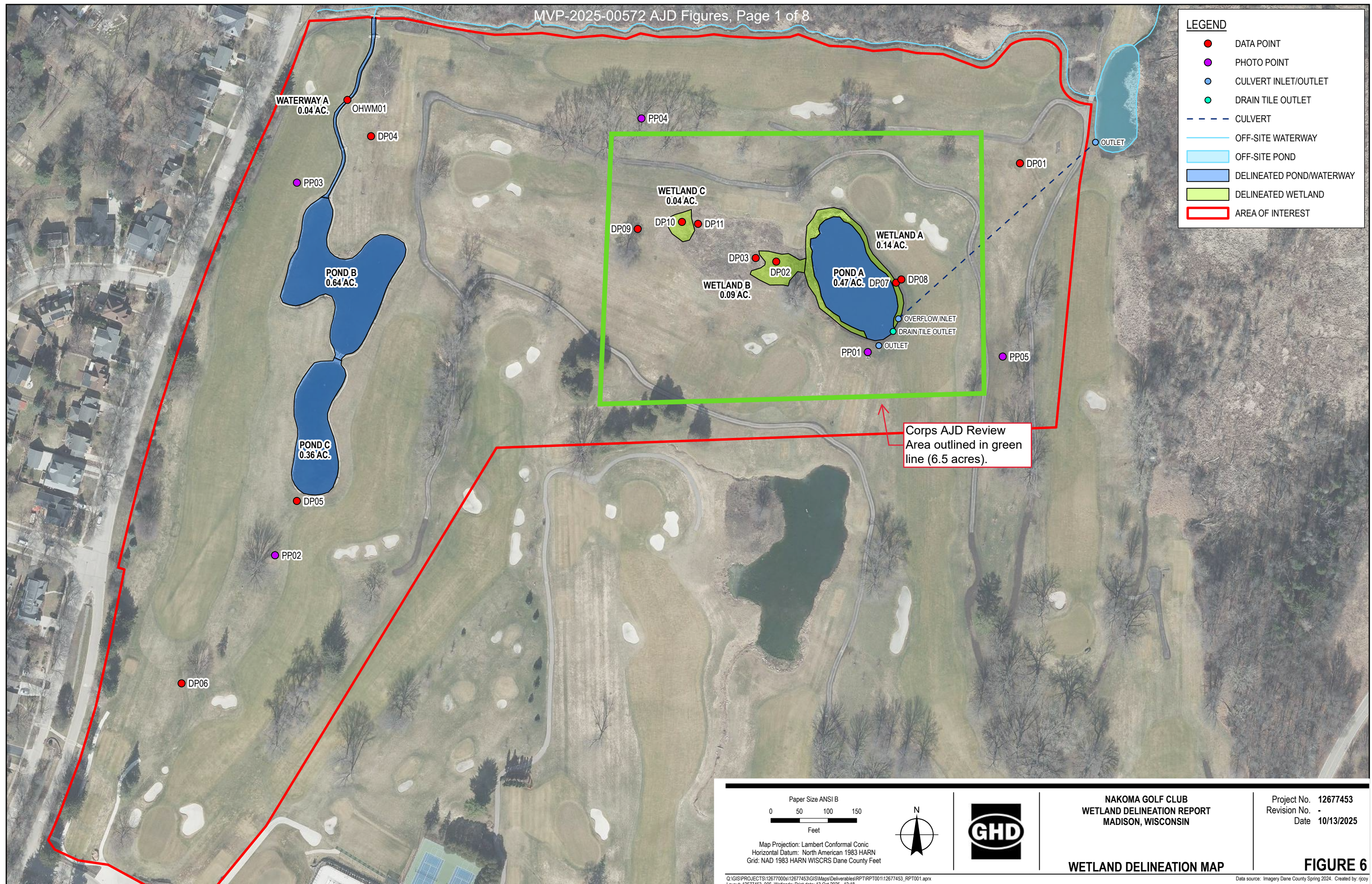
SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), MVP-2025-00572

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.

LEGEND

- DATA POINT
- PHOTO POINT
- CULVERT INLET/OUTLET
- DRAIN TILE OUTLET
- - - CULVERT
- OFF-SITE WATERWAY
- OFF-SITE POND
- DELINEATED POND/WATERWAY
- DELINEATED WETLAND
- AREA OF INTEREST



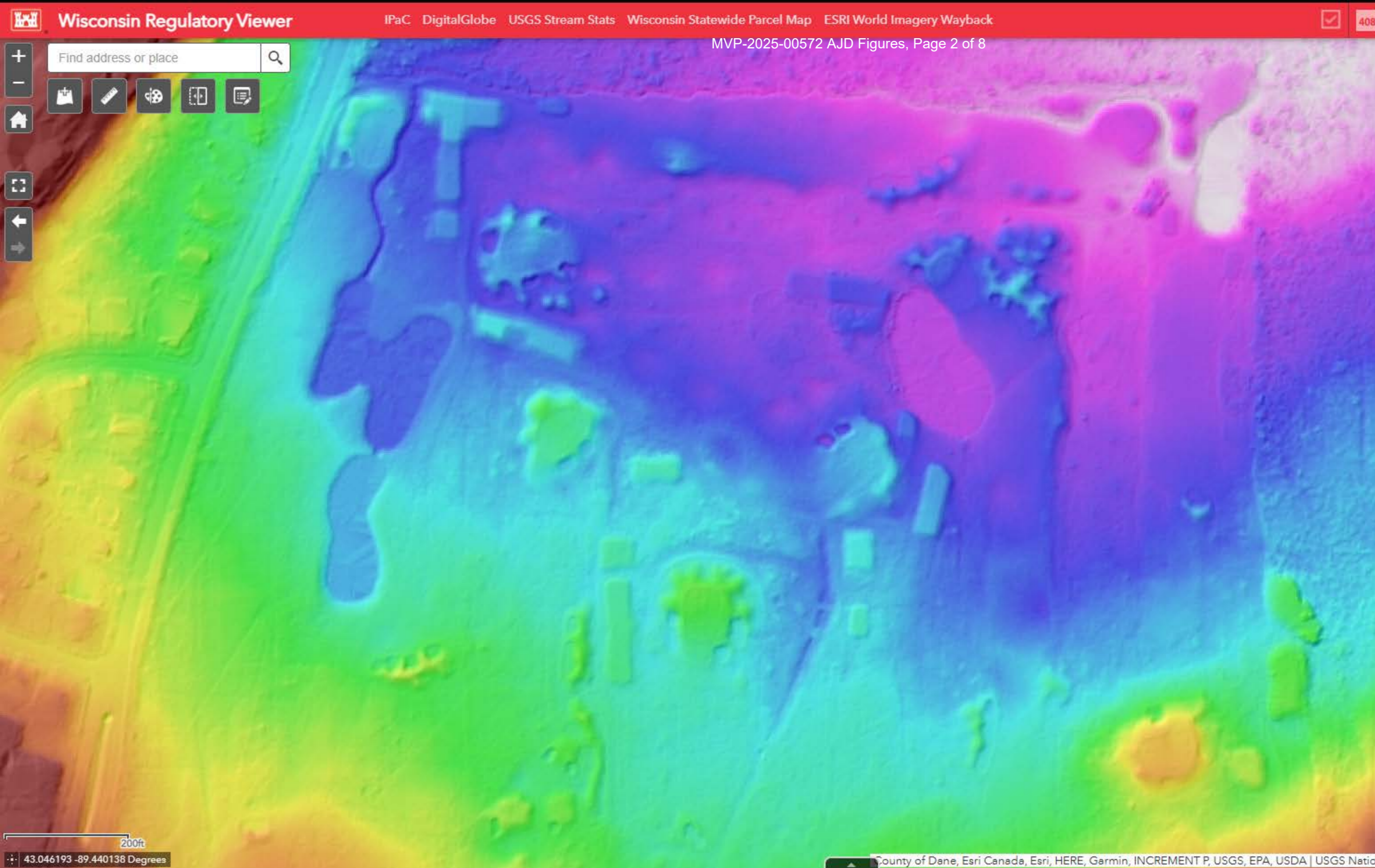
<p>Paper Size ANSI B</p> <p>0 50 100 150</p> <p>Feet</p> <p>Map Projection: Lambert Conformal Conic Horizontal Datum: North American 1983 HARN Grid: NAD 1983 HARN WISCRS Dane County Feet</p>		<p>NAKOMA GOLF CLUB WETLAND DELINEATION REPORT MADISON, WISCONSIN</p>	<p>Project No. 12677453 Revision No. - Date 10/13/2025</p> <p>WETLAND DELINEATION MAP</p>
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FIGURE 6

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Layout: 12677453_006_Wetlands; Print date: 13 Oct 2025 - 12:18

Find address or place

[Map Navigation Tools: Home, Full Screen, Previous View, Next View, Measure, Rotate, etc.]



Imagery

Lidar

- WI DNR 2ft Contour from LiDAR
- 3DEP 2-ft Contour
- 3DEP 5-ft Contour
- 3DEP 10-ft Contour
- 3DEP 25-ft Contour
- 3DEP Slope
- 3DEP Hillshade
- 3DEP Digital Elevation Model (DEM)
- Wisconsin DNR - Hillshade
- Wisconsin DNR - DEM

Satellite and Aerial Imagery

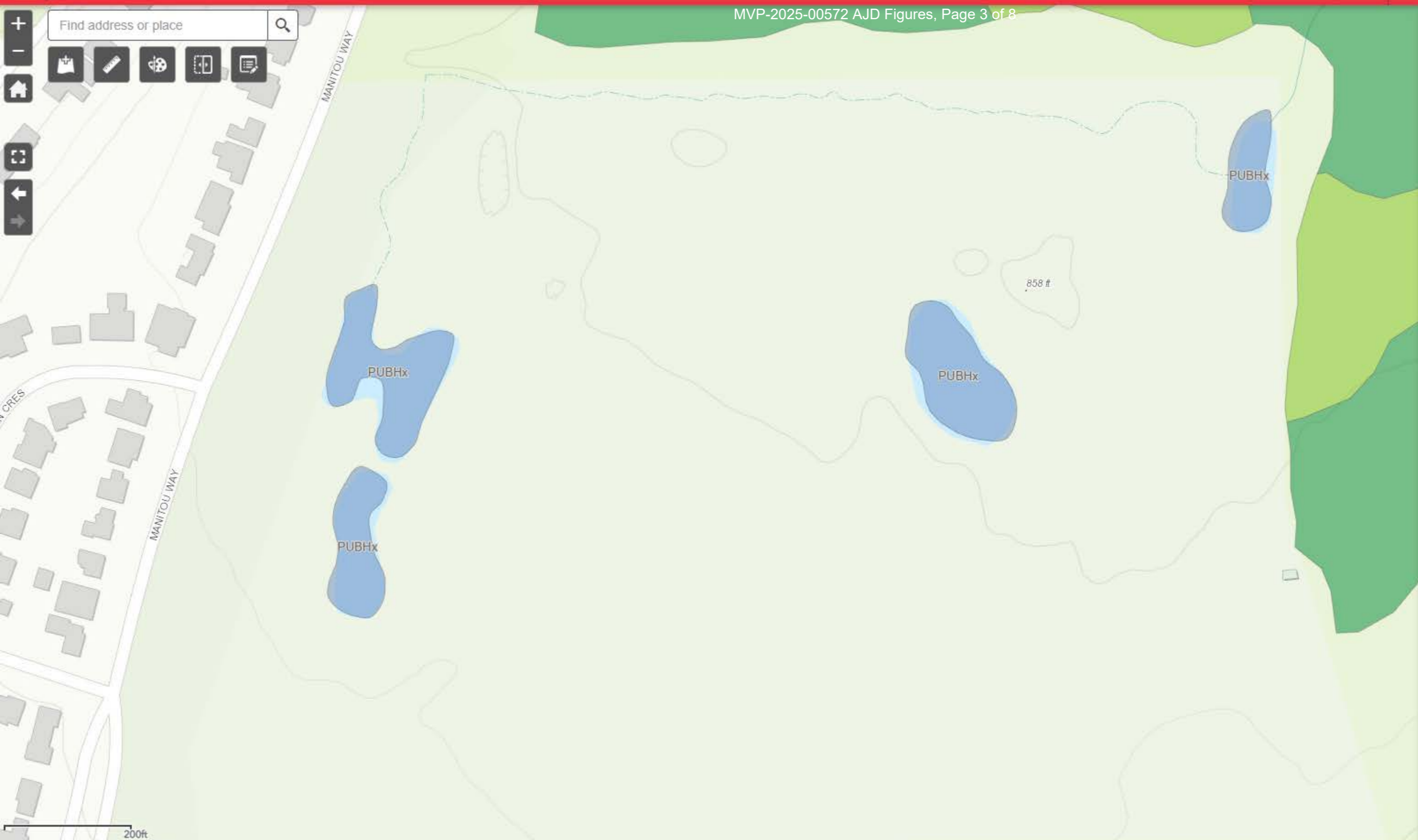
Layers

- WIDNR Imagery Index - 1990s Leaf Off
- WIDNR Imagery Index - Latest Leaf Off
- WIDNR NAIP Imagery Index - 2015 Leaf On
- WIDNR Imagery - Latest Leaf Off
- WIDNR CIR Imagery - Leaf On
- WIDNR NAIP Imagery - 2022 Leaf On
- WIDNR NAIP Imagery - 2020 Leaf On
- WIDNR NAIP Imagery - 2015 Leaf On
- WIDNR Imagery - 2013 Leaf On

Find address or place

[Home] [Layers] [Measure] [Full Screen] [Print] [Share]

[Zoom In] [Zoom Out] [Home] [Previous View] [Next View]



Reference Layers

National Layers

- Topo Quad Index (7.5 Minute) ...
- National Wetland Inventory (NWI) ...
- NHD Plus HR ...
- EPA Clean Water Act Sections 303(d) and 305(b) Assessments ...
- FEMA Flood Hazard Layer ...
- Watershed Boundaries (HUCs) ...
- USA Soils Map Units ...

USACE Regulatory

Layers

- Wetland Regions ...
- ORM: Compliance Eligibility Reports - FS ...
- MVP LPM By County ...
- TSB Bank Site Visits List 2025 ...
- Regulatory File Management ...
- Section 10 - Rivers ...

State Layers

Layers

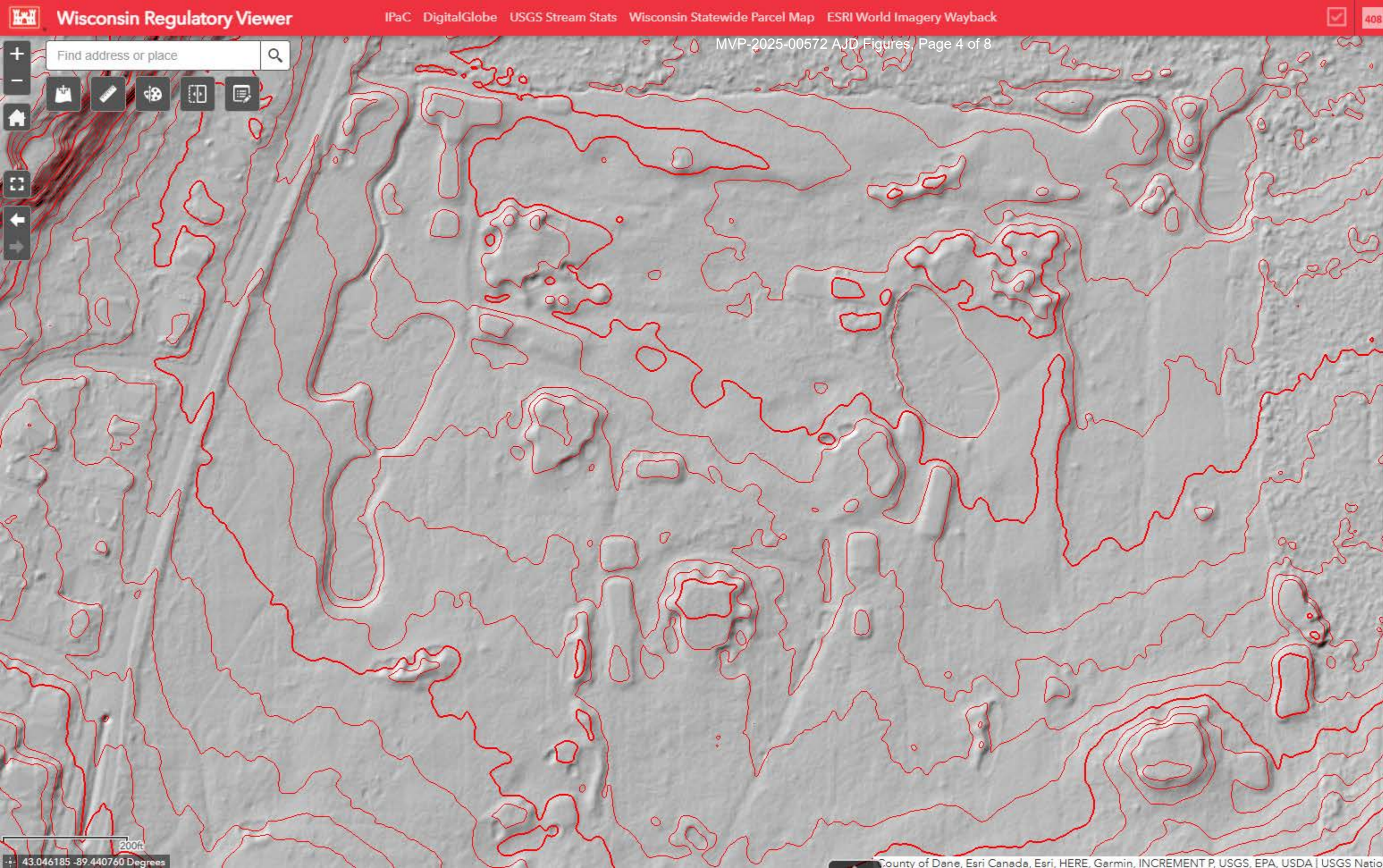
- WI 24k Hydro Flowlines Stream Order ...
- Airport Locations (center point of airport) ...
- Wisconsin DNR - 24k Hydro Shoreline (Banks) ...
- Wisconsin Wetland Inventory - Wetland Class ...
- Wisconsin Wetland Inventory - Hydrologic Description ...

Find address or place



200ft

43.046185 -89.440760 Degrees



Imagery

Lidar

- Layers**
- WI DNR 2ft Contour from LiDAR
 - 3DEP 2-ft Contour
 - 3DEP 5-ft Contour
 - 3DEP 10-ft Contour
 - 3DEP 25-ft Contour
 - 3DEP Slope
 - 3DEP Hillshade
 - 3DEP Digital Elevation Model (DEM)
 - Wisconsin DNR - Hillshade

Satellite and Aerial Imagery

- Layers**
- WIDNR Imagery Index - 1990s Leaf Off
 - WIDNR Imagery Index - Latest Leaf Off
 - WIDNR NAIP Imagery Index - 2015 Leaf On
 - WIDNR Imagery - Latest Leaf Off
 - WIDNR CIR Imagery - Leaf On
 - WIDNR NAIP Imagery - 2022 Leaf On
 - WIDNR NAIP Imagery - 2020 Leaf On
 - WIDNR NAIP Imagery - 2015 Leaf On
 - WIDNR Imagery - 2013 Leaf On



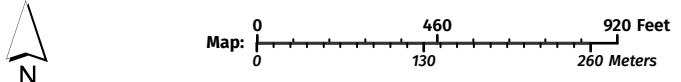


Map projection: NAD 1983 HARN Wisconsin TM

Legend: (some map layers may not be displayed)

- FIRM Panels
- Flood Hazard Boundaries
 - SFHA / Flood Zone Boundary
- Flood Hazard Zones
 - 1% Annual Chance Flood Hazard
 - Floodplain Analysis Upstream Catchment
- Wetland Class Points
 - Excavated pond
 - Wetland Class Areas
 - Wetland Indicators
- NRCS Wisconsin Soils
 - Water
 - Soil Mapping Unit
 - Rivers and Streams
 - Intermittent Streams
 - Open Water
 - 24K Intermittent Streams
 - 24K Lakes and Open Water

Notes:



Service Layer Credits:
 Latest Leaf Off: , Wetland Indicators & Soils: Surface Water Data Viewer Team, Priority Navigable Waterways: Waterway Protection, WDNR, Wisconsin Wetland Inventory NWI (Dynamic): Calvin Lawrence, Dennis Weise, Nina Rihn, Paper FIRMS: Federal Emergency Management Agency, Wisconsin Department of Natural Resources, Cities, Roads & Boundaries: , Digital FEMA Floodplains (National Flood Hazard Layer): , Surface Water (Cached): WiDNR, USGS, and other data

This map is a product generated by a DNR web mapping application.

This map is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. The user is solely responsible for verifying the accuracy of information before using for any purpose. By using this product for any purpose user agrees to be bound by all disclaimers found here: <https://dnr.wisconsin.gov/legal>

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Mapped Wetlands^

Wetland Indicators



Wetland Inventory NWI (Dynamic)

Wisconsin Wetland Inventory (NWI Standards)

DNR Wetland Areas

Ponds/Open Water



Lake Class Areas



Riverine/ditch Class Areas



Wetland Class Areas



Wisconsin Wetland Inventory

DNR Wetland Points

Wetland Class Points

Dammed pond

Excavated pond

Filled/draind wetland

Wetland too small to delineate

Filled excavated pond

Filled Points

FILLED_FLAG

Yes

DNR Wetland Areas

Wetland Class Areas

