



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

MVP-2025-00921-DDP

September 10, 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-2025-00921-DDP MFR 1 of 1 as appropriate.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. 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 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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- 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 1 (1.06 acres) - non-jurisdictional
 - ii. Wetland 2 (0.15 acre) - non-jurisdictional
 - iii. Wetland 3 (0.16 acre) - non-jurisdictional
 - iv. Wetland 6 (0.03 acre) - 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 limited to wetland 1 (1.06 acres), wetland 2 (0.15 acre), wetland 3 (0.16 acre) and wetland 6 (0.03 acre) located on Allied Cooperative Parcels 0200424 & 0200425 in Section 26, Township 25 North, Range 04 East, Town of Auburndale, Wood County, Wisconsin and is shown on the enclosed figures labeled MVP-2025-00921-DDP AJD Figures Page 2 of 2.

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 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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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
 - g. Additional Waters (a)(5): N/A
8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES
 - a. 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).

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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- Wetlands 1 and 6 are comprised of a lowland drainage swale located in the northwestern edge of the Corp review area. Runoff from the adjacent Allied Cooperative facility collects in the drainage swale and ultimately discharges into a stormwater pond on the southeast edge of the Corp review area. The Corps has determined that Wetlands 1 and 6 lack an ordinary high-water mark, and the flow frequency is sporadic, occurring most frequently in direct response to precipitation events. Therefore, Wetlands 1 and 6 are not relatively permanent waters. Additionally, Wetlands 1 and 6 do not physically abut a relatively permanent paragraph (a)(2) impoundment or a jurisdictional (a)(3) tributary. The closest relatively permanent (a)(3) water is an unnamed tributary to Mill Creek located approximately 0.30 miles southeast of the Corps review area. Therefore, Wetlands 1 and 6 are non-tidal wetlands that lack a continuous surface connection to a relatively permanent water and as such do not meet the definition of adjacent and cannot be evaluated as an (a)(4) adjacent wetland; Wetlands 1 and 6 are therefore not jurisdictional under the 2023 Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 Final Rule.
 - Wetlands 2 and 3 are isolated depressional wetlands classified as a farmed Wet Meadow. These wetlands were observed on high points of the property within shallow perched depressional areas. Wetlands 2 and 3 are not TNWs, territorial seas, or interstate waters; therefore, Wetlands 2 and 3 are not category (a)(1) waters. Current and historic aerial photos indicate Wetlands 2 and 3 are not tributaries and were not created by impounding a water of the U.S.; therefore, Wetlands 2 and 3 are not category (a)(2) or (a)(3) waters. Based on review of the wetland delineation report, Wetlands 2 and 3 do not directly abut a jurisdictional water identified in paragraph (a)(1), (a)(2), or (a)(3), of the conforming rule and are not separated from a jurisdictional water by a natural berm, bank, dune, or similar natural landform. The closest waterway is an unnamed tributary to Mill Creek located approximately 0.30 miles southeast of the Corps review area. Wetlands 2 and 3 are surrounded by uplands and there are no ditches, swales, pipes, or culverts that provide a surface connection from Wetlands 2 and 3 to the unnamed tributary to Mill Creek. Wetlands 2 and 3 are non-tidal wetland that do not have a continuous surface connection to a relatively permanent water and as such do not meet the definition of adjacent and cannot be evaluated as (a)(4) adjacent wetlands; therefore, Wetlands 2 and 3 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. McMahon Associates, Inc. Wetland Delineation Report Dated August 15, 2025, for Allied Cooperative Parcels 0200424 & 0200425.
 - b. USACE Regulatory Viewer Accessed: September 4, 2025

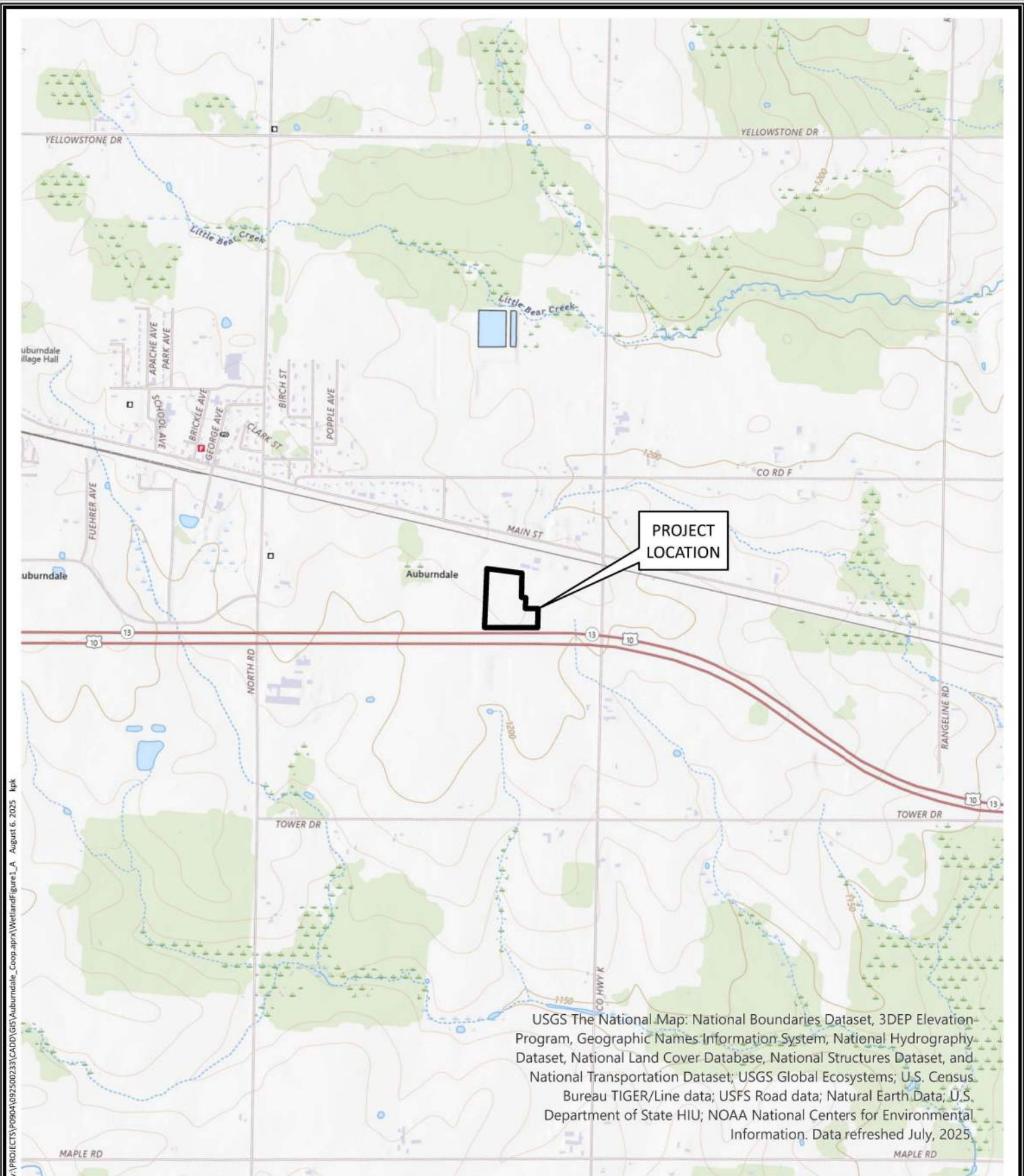
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- c. WDNR - Surface Water Data Viewer Accessed: September 4, 2025
- d. Google Earth Imagery Accessed: September 4, 2025
- e. Wisconsin Wetland Inventory, USDA Web Soil Survey, and USGS NHD and Topographic Maps Accessed: September 4, 2025
- f. USGS 1:24K Quad Name: Sherry
- g. Office evaluation conducted on: September 4, 2025

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.



USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road data; Natural Earth Data; U.S. Department of State HIU; NOAA National Centers for Environmental Information. Data refreshed July, 2025.

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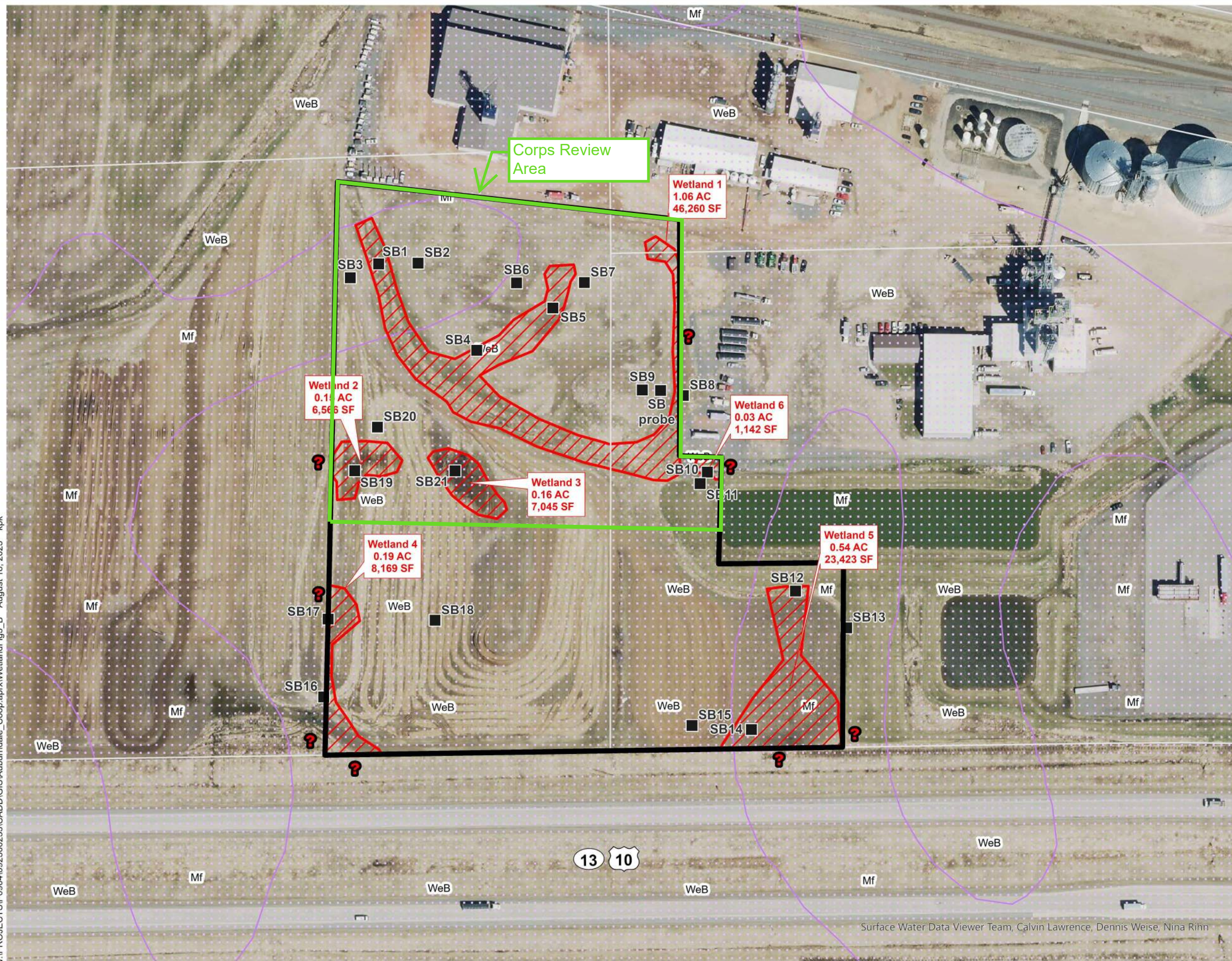


1 inch equals 2,000 Feet

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FIGURE 1
SITE LOCATION & TOPOGRAPHIC MAP
ALLIED COOPERATIVE
TOWN OF AUBURNDALE
WOOD COUNTY, WISCONSIN



Mapped Features

- Review Area Boundary (13.10 acres)
- Wetland Area (2.13 acres / 92,605 SF)
- SB 1 Soil Boring and ID
- Wetlands Extend Beyond Review Area
- WDNR Wetland Indicator
- WDNR Wetland Inventory (NA)
- Waterway (NA)
- Parcel Line

Project No: P0904 - 09-25-00233
 Wetland Delineation Date: July 14, 2025
 Data Sources: Wood County, 2024; WDNR, 2025
 Imagery: Wood County, 2020

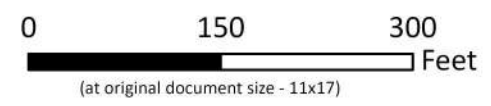


FIGURE 3
WETLAND DELINEATION MAP
 ALLIED COOPERATIVE
 TOWN OF AUBURDALE
 WOOD COUNTY, WISCONSIN

Surface Water Data Viewer Team, Calvin Lawrence, Dennis Weise, Nina Rihn

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