



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

January 7, 2026

CEMVP-RD

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-2025-01244-CJB, 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,

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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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
WL1	Non-Jurisdictional	N/A
WL2	Non-Jurisdictional	N/A
WL3	Non-Jurisdictional	N/A

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.

- a. Review Area Size (in acres): 39.04
- b. Location Description: The project/review area is located in Section 08, Township 25N, Range 19E, Brown County, Wisconsin.
- c. Center Coordinates of the Project Site (in decimal degrees)
Latitude: 44.651320 Longitude: -88.227870
- d. Nearest City or Town: Pulaski
- e. County: Brown
- f. State: Wisconsin
- g. Other associated Jurisdictional Determinations (including outcomes):

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Action ID	Type	Outcome
N/A	N/A	N/A

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED.⁶

N/A

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,

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.

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).⁹

We have reviewed and evaluated the historical photography, LiDAR, Google Earth photography, soil mapping, and the information submitted by the applicant for the following feature under the categories of exclusions:

- WL1, non-jurisdictional

Based on the wetland delineation report, WL1 (0.03 acre) is a man-made ditch feature. This drainage way is evident in LiDAR images and topographic maps beginning along the southern boundary of the review area and ending at a field tile outlet riser piper, spanning approximately 180 linear feet. Based on review of historic aerial images and the wetland delineation report, this wetland area was excavated sometime around 1970 when a field drainage tile system was installed. Lack of wetness signatures in historic aerial photos prior to 1970 (years

⁹ 88 FR 3004 (January 18, 2023)

1938, 1958, 1960, 1966) in the area of WL1 indicate this ditch was excavated wholly in dry land. Review of the hydric soils layer within the National Regulatory Viewer indicates a lack of hydric soil in the area of WL1, providing further support that this wetland was constructed in upland. Based on review of the wetland delineation report, aerial photos, and onsite photos, wetland conditions have developed in the bottom of this ditch, but this ditch drains only dry land and does not actively drain other wetlands. Based on review of current aerial photos, historic aerial photos, and onsite photos from the wetland delineation report, WL1 does not carry a relatively permanent flow, lacks a bed and bank, and does not have an ordinary high water mark. Therefore, WL1 meets the definition of a category (b)(3) ditch and is not jurisdictional under the 2023 Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 Final Rule.

- 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).

We have reviewed and evaluated the historical photography, LiDAR, Google Earth photography, soil mapping, and the information submitted by the applicant for the following features under the categories of waters of the United States:

- WL2, non-jurisdictional
- WL3, non-jurisdictional

WL2 (0.01 acre) is located in a closed depression near the southwestern boundary of the review area. Based on LiDAR review and the submitted delineation report, this wetland is surrounded entirely by uplands with no discrete conveyance features evident and does not abut any other waterbodies. Therefore, wetland WL2 does not abut a jurisdictional water and does not meet the continuous surface requirement.

WL3 (0.01 acre) is located in a closed depression also near the southwestern boundary of the review area. Based on the wetland delineation report, WL3 is an artificial wetland that was created from a dug pit that serves as an outlet for a field tile drainage system. However, this wetland does not appear to meet any of the exclusions listed in 33 CFR 328.3(b) and was reviewed to determine if it would meet a category of a water of the United States. Based on review of LiDAR and the submitted delineation report, WL3 is surrounded entirely by uplands. No discrete conveyance features were observed in review of LiDAR, current and historic aerial photos, or topographic maps and this wetland does not

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abut any other waterbodies. Therefore, wetland WL3 does not abut a jurisdictional water and does not meet the continuous surface requirement.

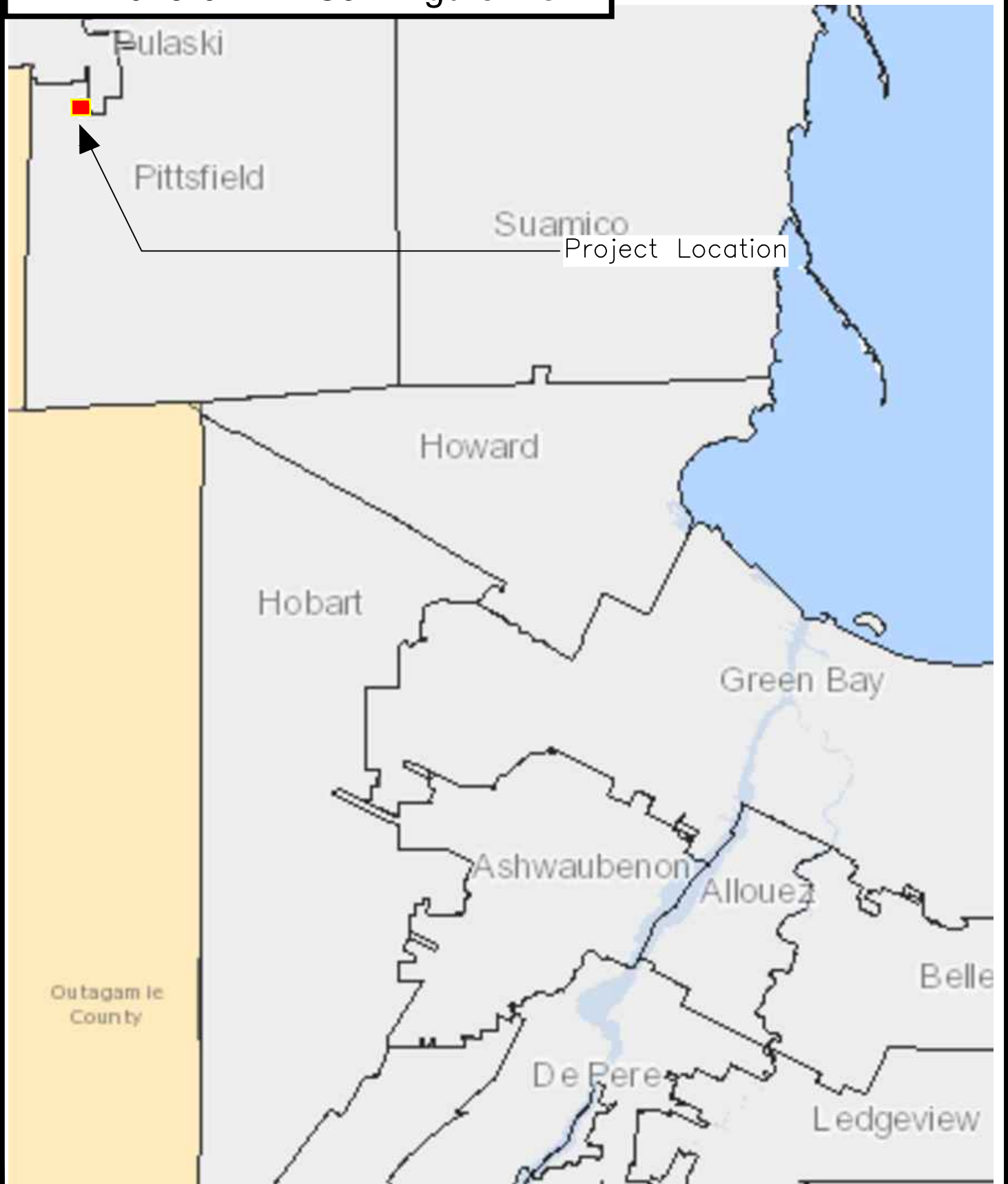
9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.

- a. Office Evaluation, conducted on December 31, 2025
- b. Wetland Delineation Report, completed by George & Holdt – Soil Consultants, LLC, field work completed May 5, 2022
- c. National Regulatory Viewer layers consisting of LiDAR (Hillshade and DEM), USA Soils Hydric Class, accessed on December 31, 2025
- d. Wisconsin Historic Aerial Imagery Finder, aerial photos from 1958 and 1966, accessed on December 31, 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.



GEORGE & HOLDT- SOIL CONSULTANTS LLC

6350 Nero Lane
Sobieski, WI 54171
(920)822-9918
georgeandholdt.com

DAVID A. GEORGE

AARON HOLDT

Project Location

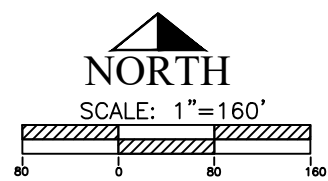
SW $\frac{1}{4}$ NW $\frac{1}{4}$, S8, T25N-R19E
Village of Pulaski
Brown County



AJD Review Area
Outlined in Yellow

- Key**
- Transect Point
 - ▭ Wetland Boundary
 - ▭ Project Boundary
 - Field Tile Outlet Riser Pipe

- Wetlands**
- WL1 = 1492 Sq Ft
 - WL2 = 385 Sq Ft
 - WL3 = 399 Sq Ft



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WM Development
 445 Cardinal Lane #102
 Green Bay, WI 54313

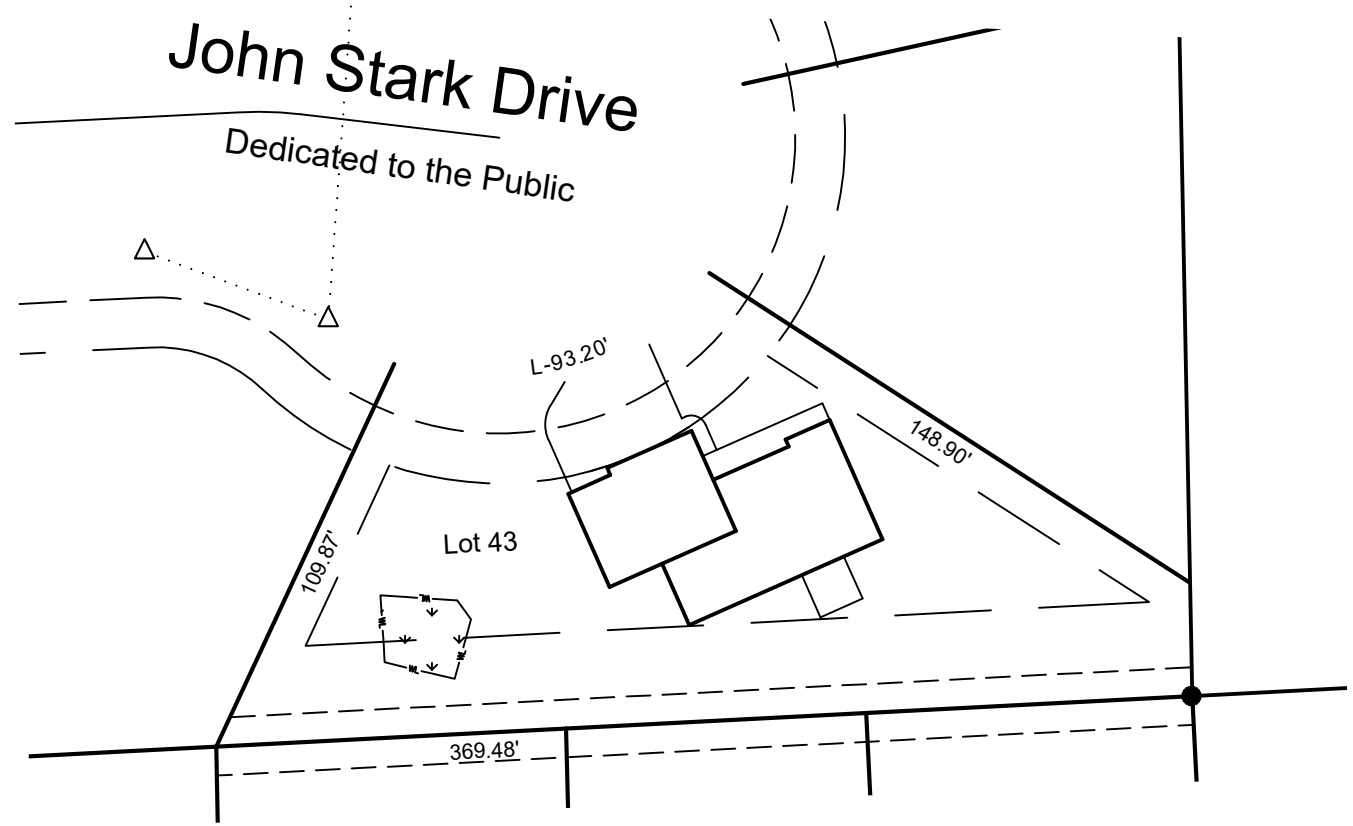
Tax Parcel # VP-PI119
 SW,NW,S8,T25N-R19E
 Village of Pulaski
 Brown County

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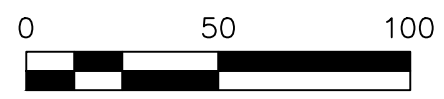
AARON HOLDT

Wetland Exhibit

Lots 43 of proposed First Addition to Crest Estates being part of the Southwest 1/4 of the Northwest 1/4, Section 08, Township 25 North, Range 19 East, Village of Pulaski, Brown County, Wisconsin.



TNT
Professional Land
SURVEYORS Inc.
2165 S. Broadway
Green Bay, WI 54304
(920)406-1477
Job # 0925-115
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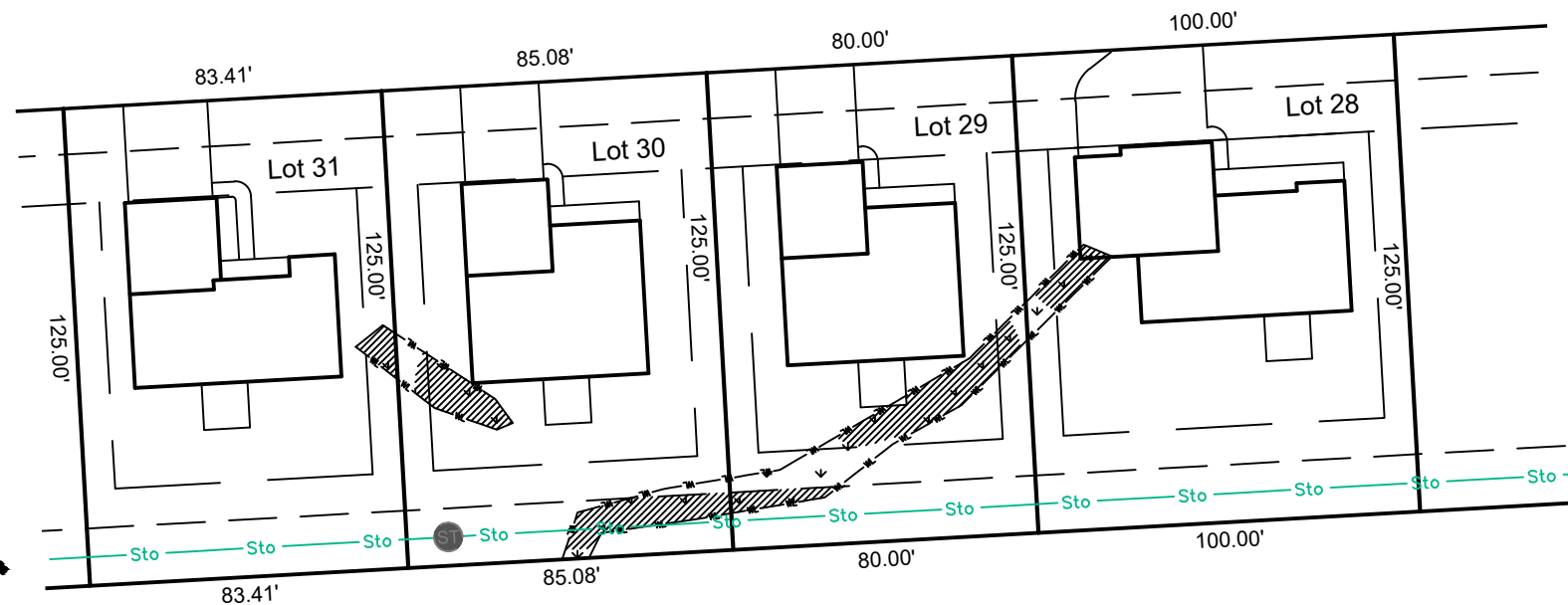
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Wetland Exhibit

Lots 28-31 of proposed First Addition to Crest Estates being part of the Southwest 1/4 of the Northwest 1/4, Section 08, Township 25 North, Range 19 East, Village of Pulaski, Brown County, Wisconsin.

Putnam Drive
Dedicated to the Public



TNT

Professional Land
SURVEYORS Inc.

2165 S. Broadway

Green Bay, WI 54304

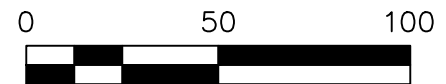
(920)406-1477

Job # 0925-115

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 Area of Disturbed Wetlands

Total area of
disturbed Wetlands
1290 Square Feet



Scale: 1"=50'



Sheet 1 of 1