



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-2025-01321, 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).
 - i. Wetland B (0.10 acres), non-jurisdictional
 - ii. Wetland C (0.10 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 located on the 3.00-acre site, located at the Intersection of County Highway CC at Jefferson Street and Alpine Parkway located in the Village of Oregon, Dane County, Wisconsin. Latitude: 42.929023 Longitude: -89.400049 and is shown on the enclosed figures labeled MVP-2025-01321 AJD Figures, Pages 1 to 9.

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

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6. SECTION 10 JURISDICTIONAL WATERS⁶: 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 10.⁷ 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

⁶ 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.

⁷ 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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- 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).⁸

Wetlands B (0.10-acres) and C (0.10-acres) were identified in the July 18, 2025, KL Engineering – Village of Oregon CTH CC at Jefferson Street and Alpine Parkway Wetland Delineation Report. These features, described as wetlands, were constructed in uplands to provide roadway water runoff drainage. No mapped wetlands (National Wetland Inventory or Wisconsin Wetland Inventory) were identified at the location of Wetlands B and C, providing further evidence the ditch features were constructed wholly in upland. Finally, additional evidence provided by the applicant (site photos and aerial imagery) confirms no relatively permanent flow of water was observed, and the features do not have a continuous surface connection to any relatively permanent jurisdictional water. Grading occurred when a local business, excavated pond, and residential subdivision were constructed on the south side of CTH CC sometime between 2000 and 2005. Wetlands B and C were constructed in uplands between 1937 and 1955 as a result of the construction of CTH CC. Wetlands B and C are roadside ditches that hold and drain runoff into a nearby excavated pond. The pond was excavated sometime between 2000 and 2005. Wetlands B and C, as well as the pond, are not connected to a RPW or TNW. Wetlands B and C are results of the construction of a ditch system to manage runoff within the CTH CC intersection. Both Wetlands B and C extend outside the review area. Accordingly, the Corps has determined that Wetlands B and C are excluded from Section 404 jurisdiction under (b)(3) of the 2023 Revised Definition of ‘Waters of the United States’; Conforming” 88 FR 61964 Final Rule as (b)(3) ditches excavated wholly in and draining only dry land that do not carry a relatively permanent flow of water.

- 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

⁸ 88 FR 3004 (January 18, 2023)

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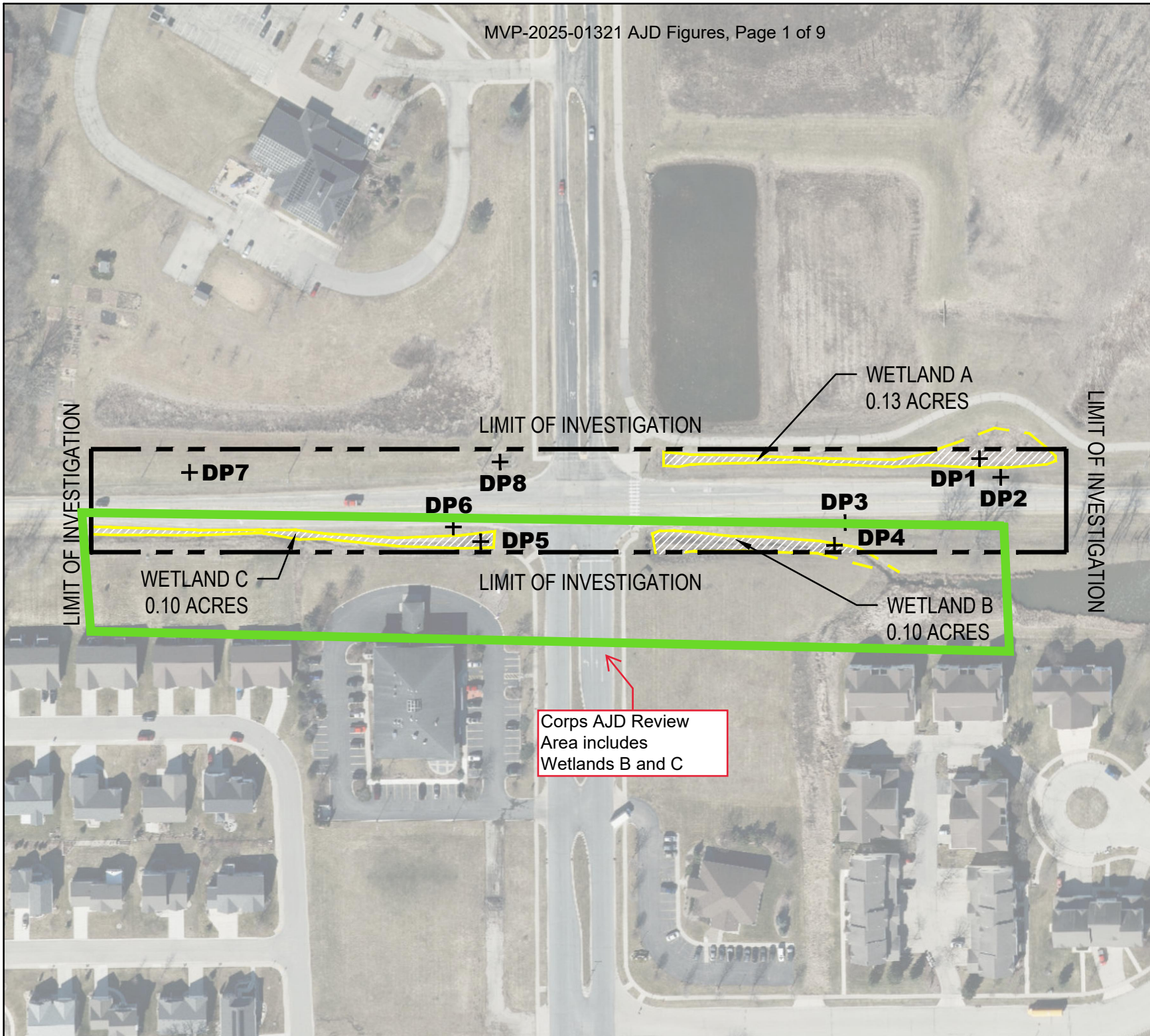
9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.
 - a. July 18, 2025, KL Engineering – Village of Oregon CTH CC at Jefferson Street and Alpine Parkway Wetland Delineation Report.
 - b. USACE Regulatory Viewer Accessed: December 31, 2025.
 - c. WDNR - Surface Water Data Viewer Accessed: December 31, 2025.
 - d. Google Earth Imagery Accessed: December 31, 2025.
 - e. Wisconsin Wetland Inventory, USDA Web Soil Survey, and USGS NHD and Topographic Maps Accessed: December 31, 2025.
 - f. USGS 1:24K Quad Name: Oregon.
 - g. Office evaluation conducted 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.

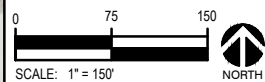
WETLAND BOUNDARY MAP

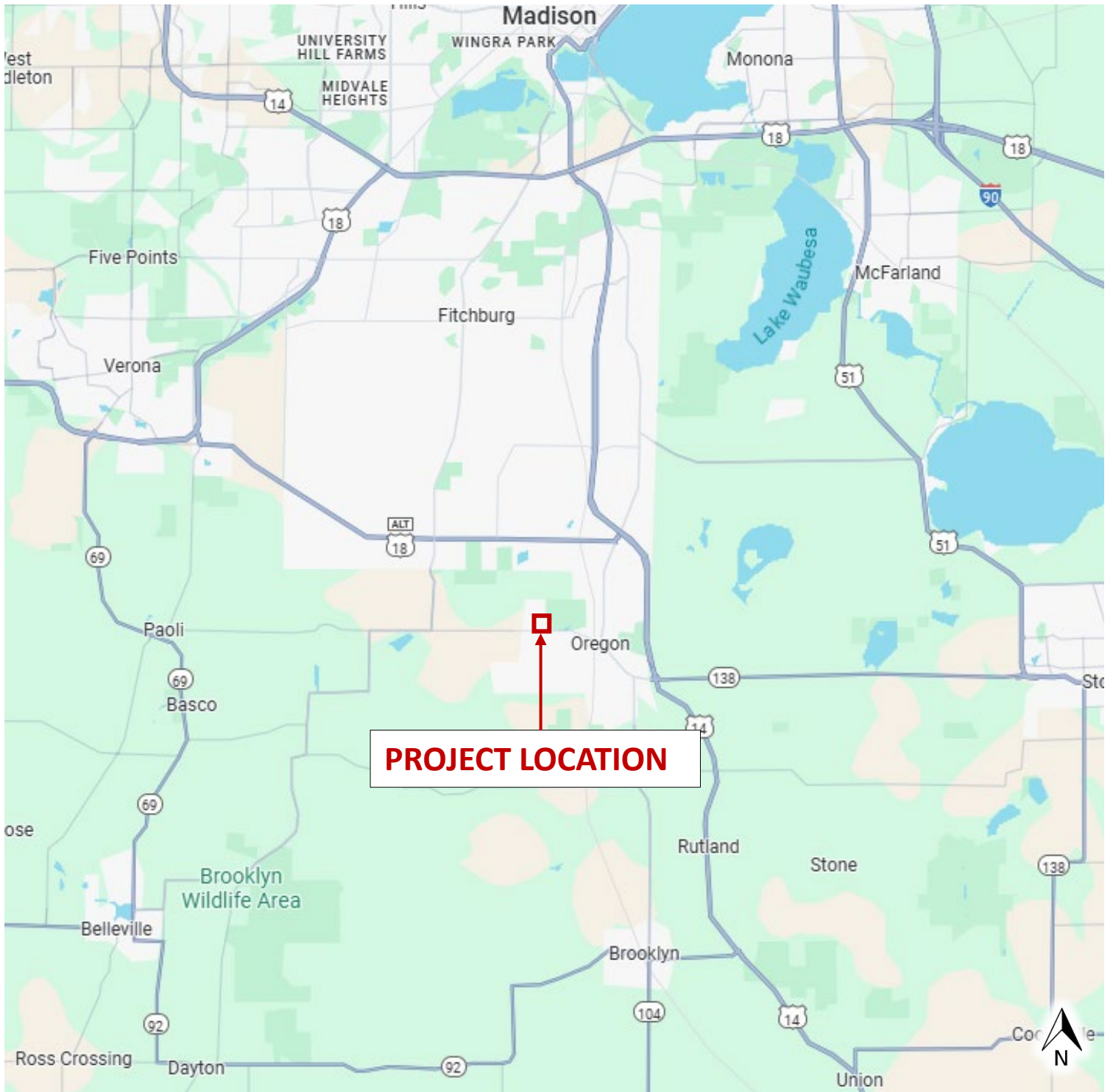
JEFFERSON STREET & ALPINE
PARKWAY INTERSECTION
OREGON, WI 53575



Drawn By	EJ
Project Number	25-157
Date	2025-07-18
Sheet	01
Exhibit	

FIGURE 9

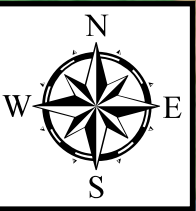




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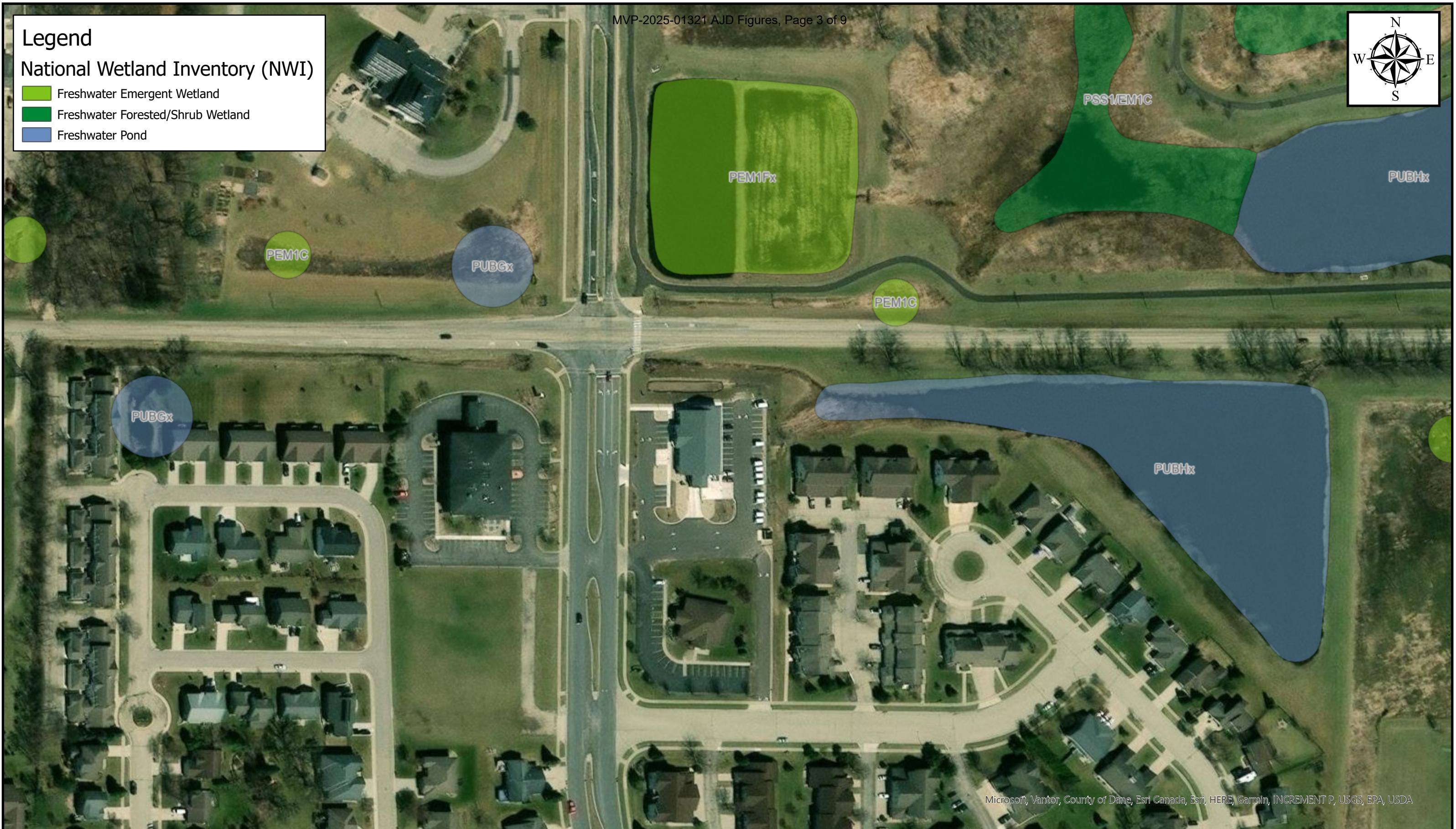
FIGURE 1. LOCATION MAP

Source: Google Maps, 2025

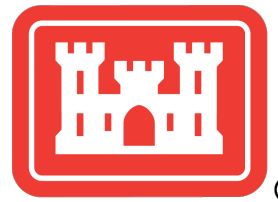


Legend
National Wetland Inventory (NWI)

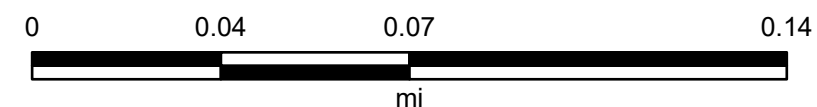
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond



Microsoft, Vantor, County of Dane, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA



MVP-2025-01321 NWI



Map Center: 89.399327°W 42.928599°N

Map Created by: Trace Strahle

Date: 12/31/2025

Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere
Projection: Mercator Auxiliary Sphere

Find address or place

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Home

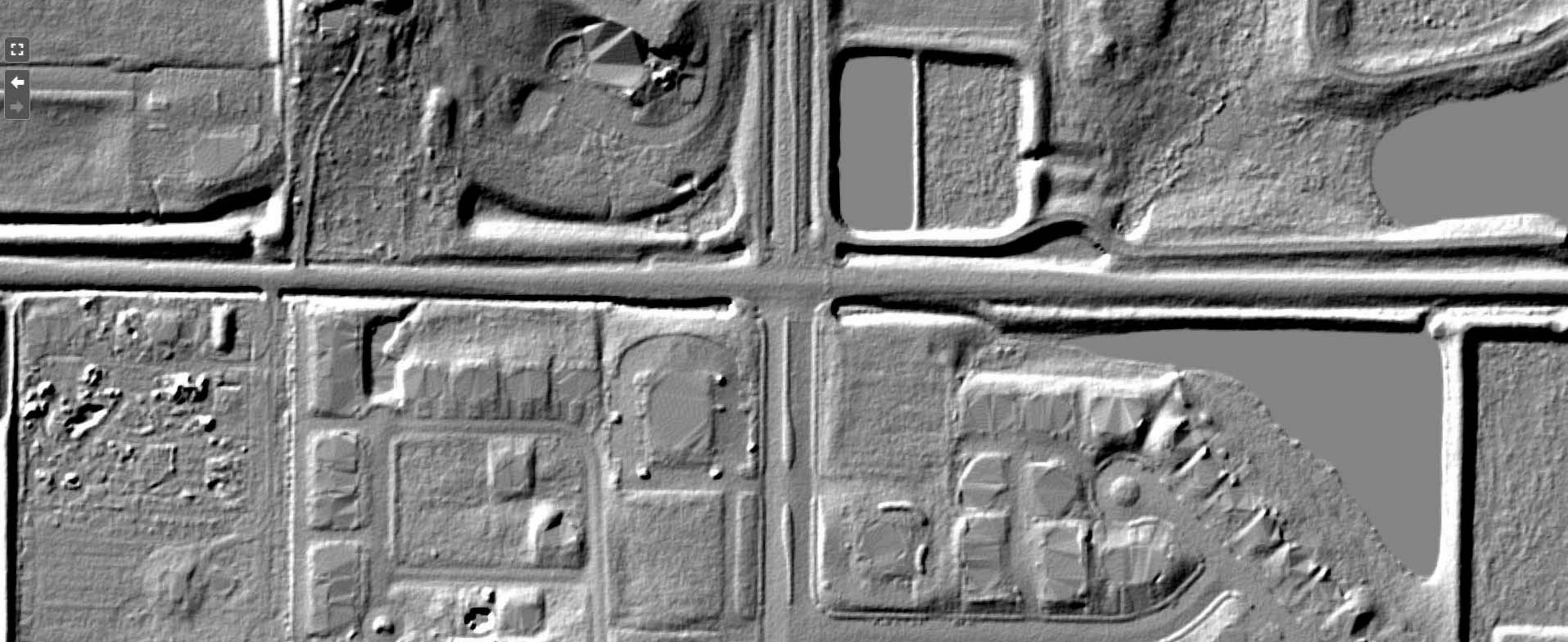
Layers

Measure

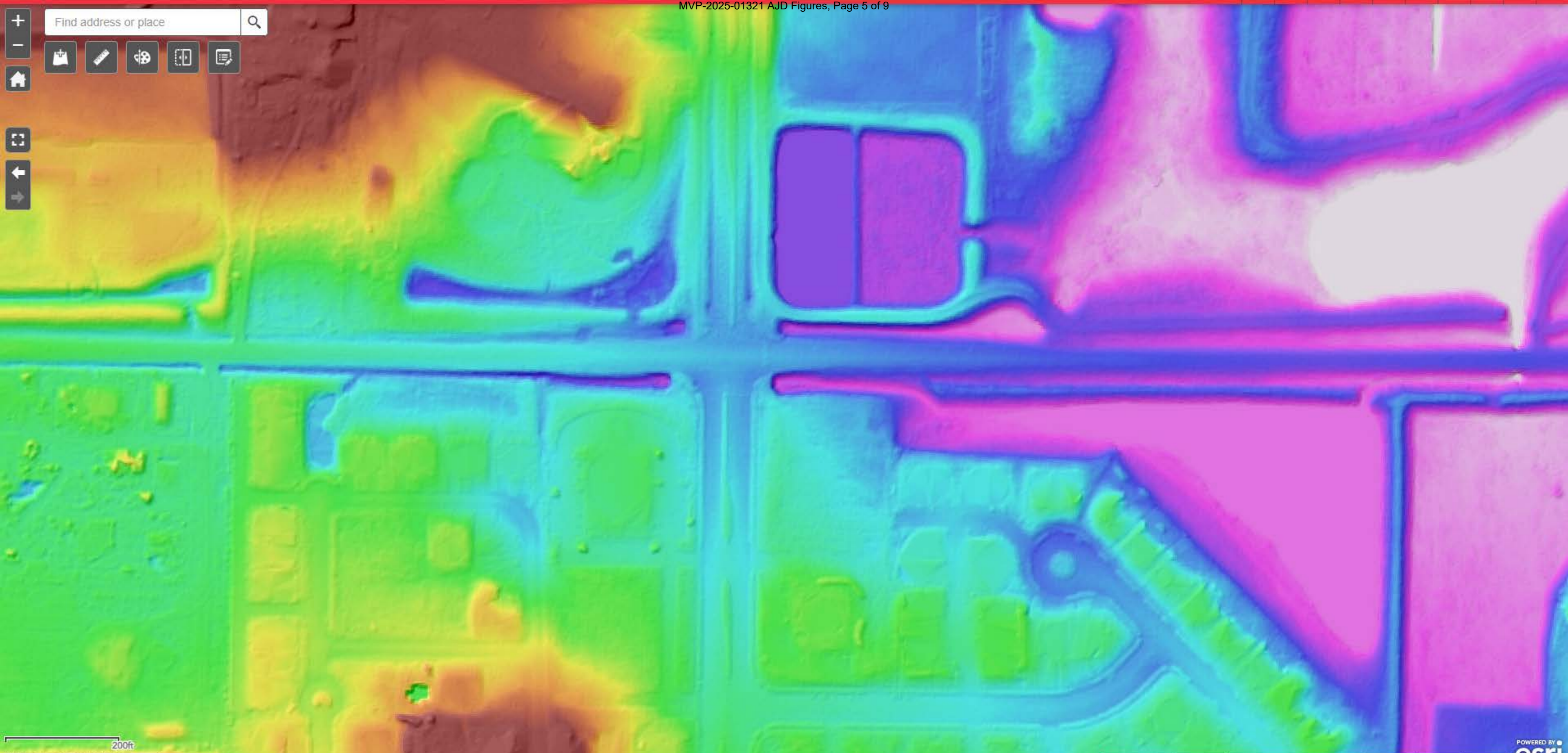
Draw

Print

Help



Find address or place



200ft
42.929833 -89.404632 Degrees

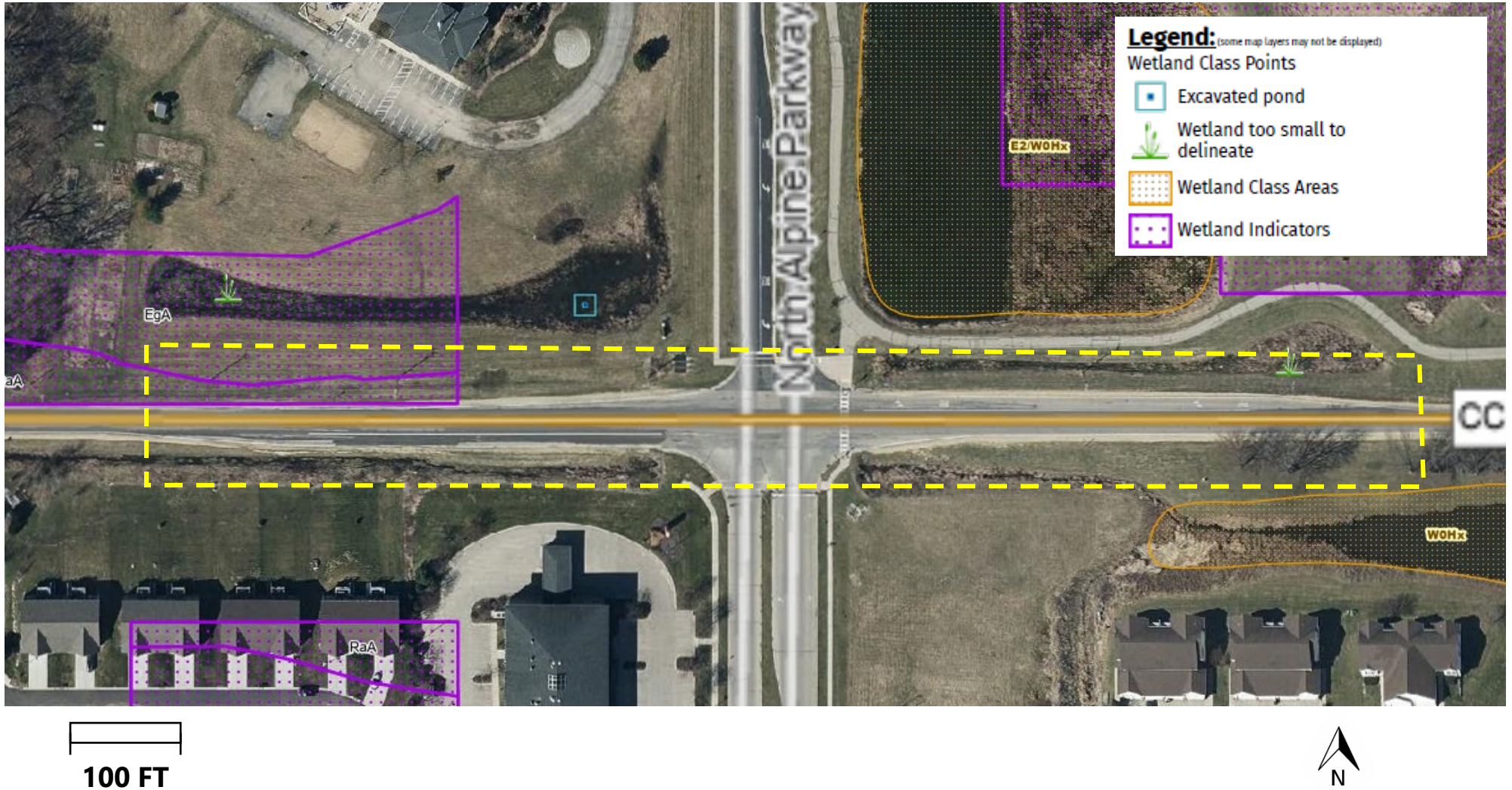
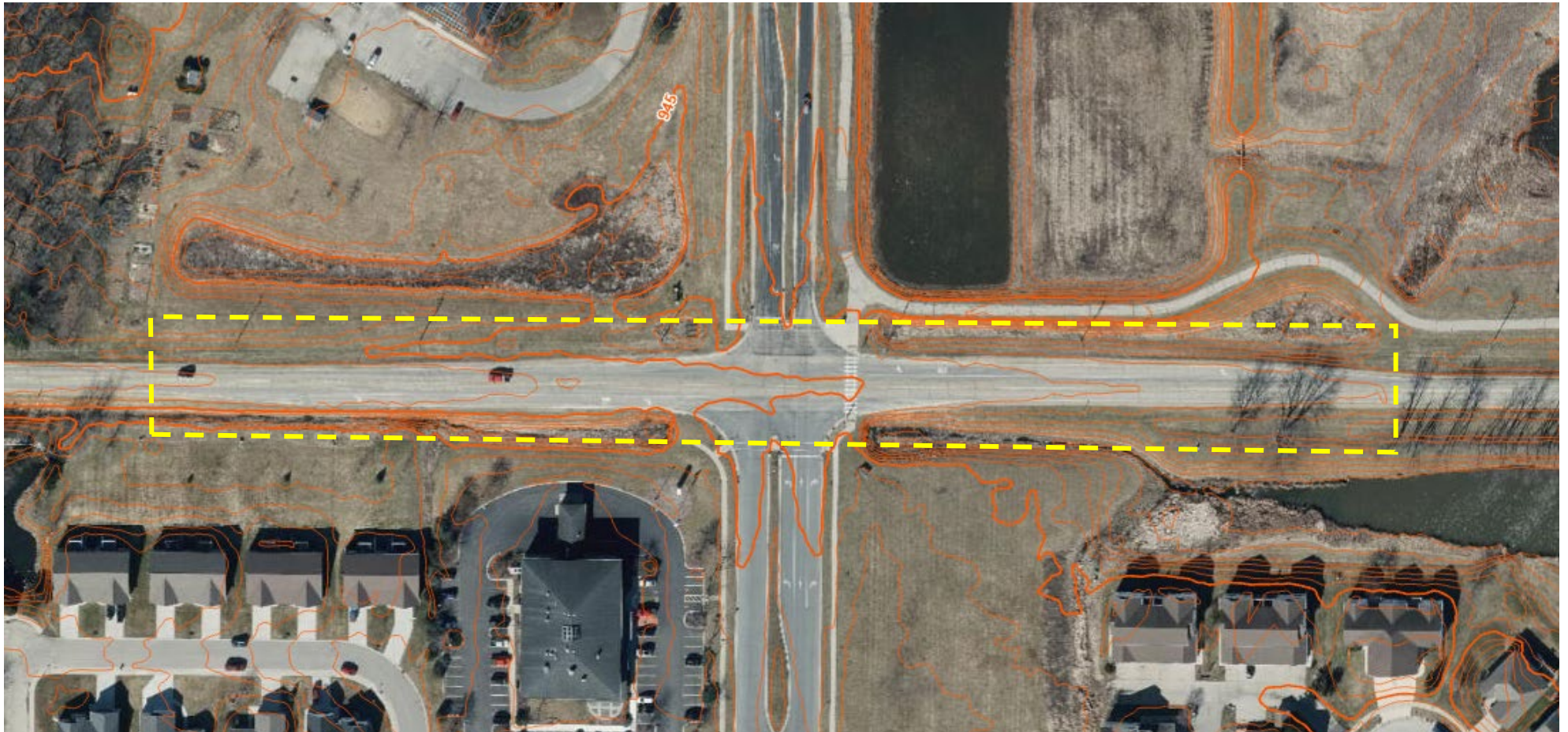


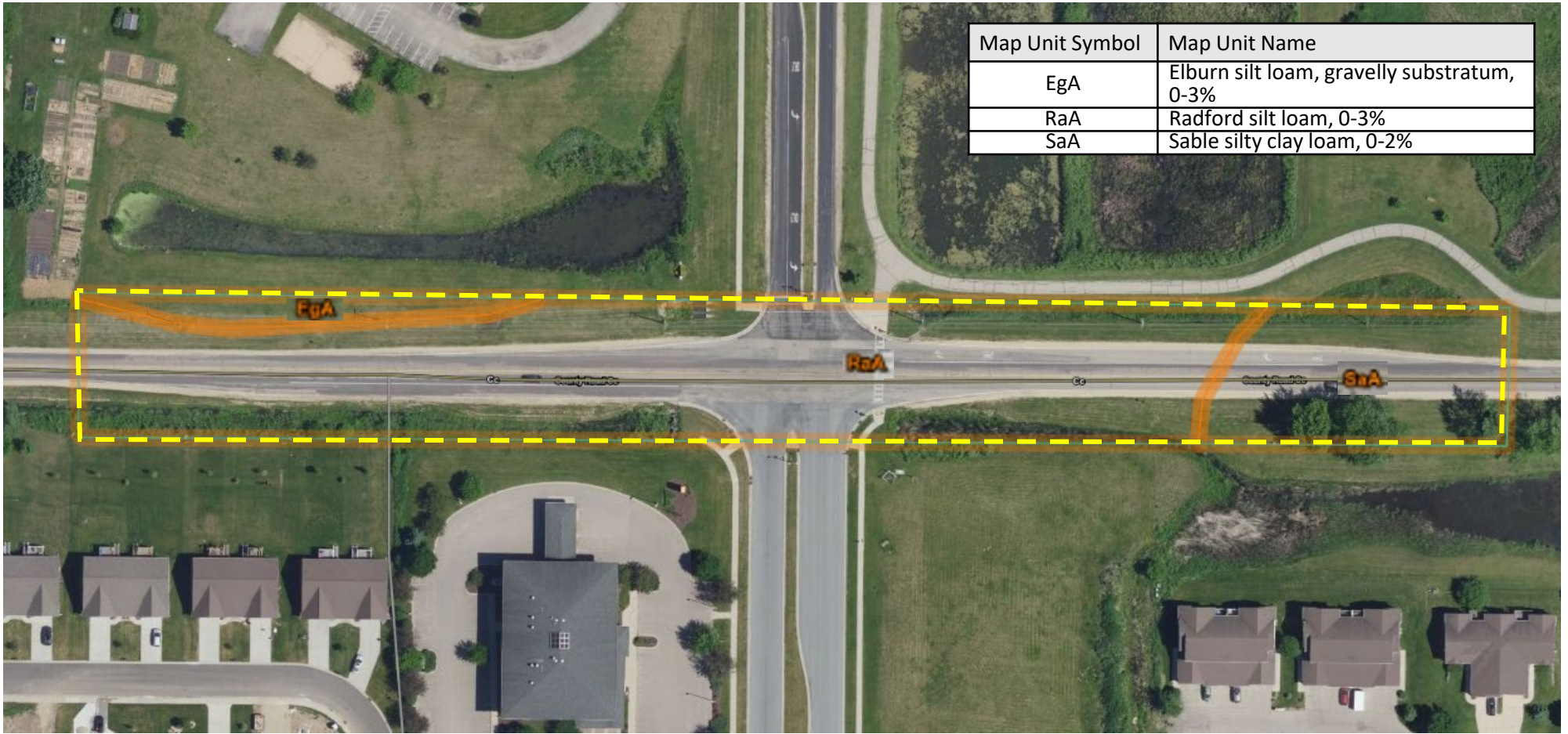
FIGURE 5. WWI MAP



100 FT



FIGURE 2. TOPOGRAPHIC MAP



100 FT



FIGURE 3. SOIL SURVEY MAP

Source: NRCS Web Soil Survey, 2025

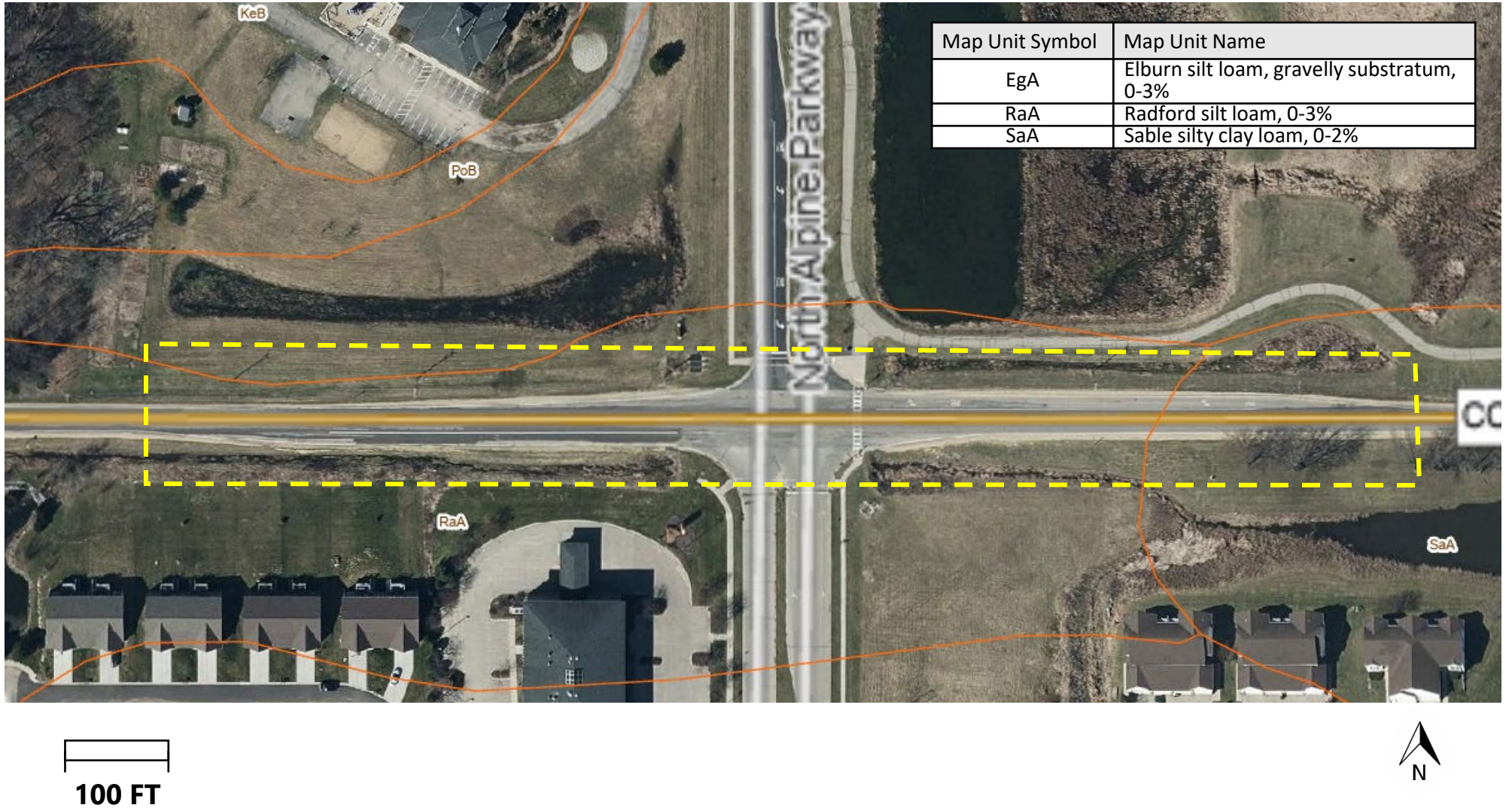


FIGURE 4. NRCS WISCONSIN SOILS MAP