



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

MVP

August 11, 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),<sup>1</sup> MVP-2025-00790-CCK 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).

Name of Aquatic Resource	Jurisdictional or Non-jurisdictional
W1 (0.03 acre)	Non-Jurisdictional
W2 (0.20 acre)	Non-Jurisdictional
W3 (0.05 acre)	Non-Jurisdictional
W4 (0.04 acre)	Non-Jurisdictional
W5 (0.12 acre)	Non-Jurisdictional
W6 (0.03 acre)	Non-Jurisdictional
W7 (0.14 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. \_\_\_, 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 review area is an approximate 14.6-acre property located at 1600 Sorensen Street, Cumberland, Wisconsin. The review area includes seven aquatic resource areas identified as W1, W2, W3, W4, W5, W6, and W7 in the enclosed project figures. The nearest tributary is the Beaver Dam Lake/Library Lake/Hay River and is located approximately 0.24 miles east of the review area. A JD was performed in 1992 (MVP-1992-06647) as part of an alleged violation, and the JD determined the wetlands on site were jurisdictional.

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- a. Project Area Size (in acres): 14.6 acres
  - b. Location Description: The project/review area is located in Section 12, Township 35 North, Range 14 West, City of Cumberland, Barron County, Wisconsin.
  - c. Center Coordinates of the Project Site (in decimal degrees)  
Latitude: 45.5351811449655      Longitude: -92.0339763531134
  - d. Nearest City or Town: Cumberland
  - e. County: Barron
  - f. State: Wisconsin
  - g. Other associated Jurisdictional Determinations (including outcomes)  
MVP-1992-06647, positive jurisdiction.
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 "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.

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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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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).

[The review area is limited to W1-W7 as identified in the attached figures. W1-W7 are not a TNWs, territorial seas, or interstate waters and therefore are not an \(a\)\(1\) water. W1-W7 do not physically abut a relatively permanent category \(a\)\(2\) impoundment or a jurisdictional category \(a\)\(3\) tributary. This determination is supported by the national wetland and hydrography datasets which do not](#)

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

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identify any aquatic resources or other potential surface connections between these aquatic resources and any other waters. Topographic maps, soils maps, 3DEP 2-ft contours, 3DEP Digital Elevation Model, 3DEP Hillshade and Google Earth aerial imagery indicate that W1-W7 are depressional wetlands, surrounded by uplands.

W1-W7 is approximately 0.24 miles from the closest tributary (Beaver Dam Lake/Library Lake/Hay River), east of the review area. W1-W7 are non-tidal wetlands that do not have a continuous surface connection to a relatively permanent jurisdictional water and as such do not meet the definition of adjacent and cannot be evaluated as (a)(4) adjacent wetlands; therefore, this wetland 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. Wetland Delineation Report, Ruppel Site, City of Cumberland, Barron County Wisconsin. Ecosystems, LLC, November 2024.
- b. US Geological Survey, 3DEP Bare Earth DEM Dynamic service –3DEP DEM, accessed on 7 August 2025
- c. Google Earth aerial imagery (1991 – present), accessed 7 August 2025.
- d. Wisconsin Historic Aerial Imagery Finder (<https://maps.sco.wisc.edu/whaifinder/?center=-89.900%2C44.750&level=7>) (1930 – present), accessed 7 August 2025
- e. USGS NHD Map Service. Accessed 7 August 2025.

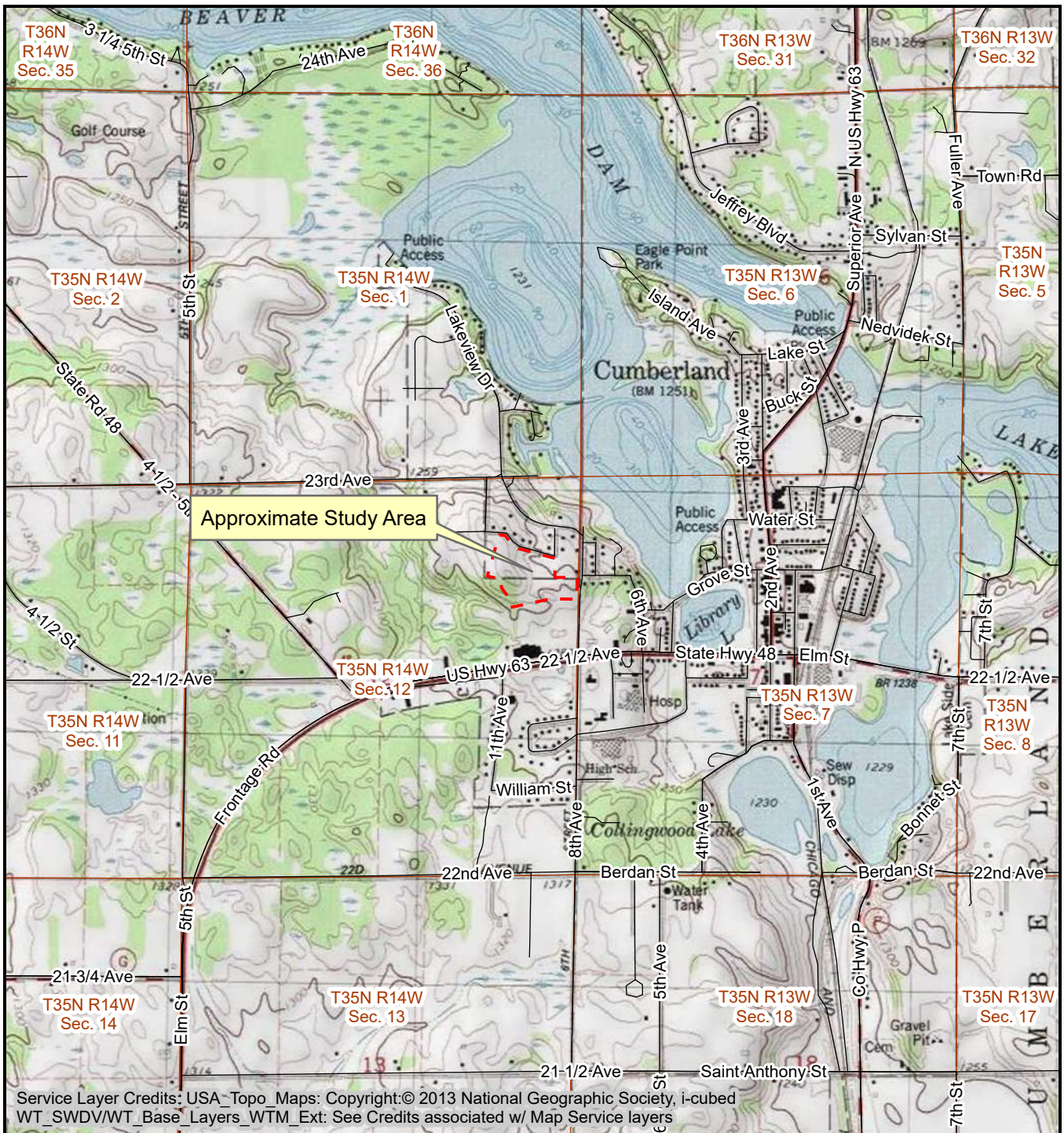
10. OTHER SUPPORTING INFORMATION.

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

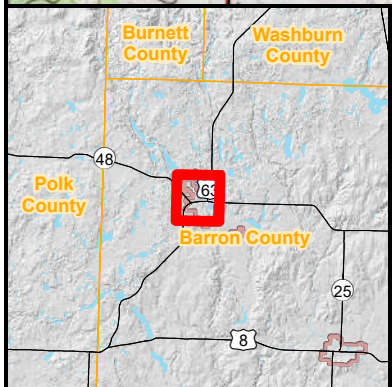
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additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.



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 WT\_SWDV/WT\_Base\_Layers\_WTM\_Ext: See Credits associated w/ Map Service layers



▭ Approximate Study Area  
 Roadway  
 Section

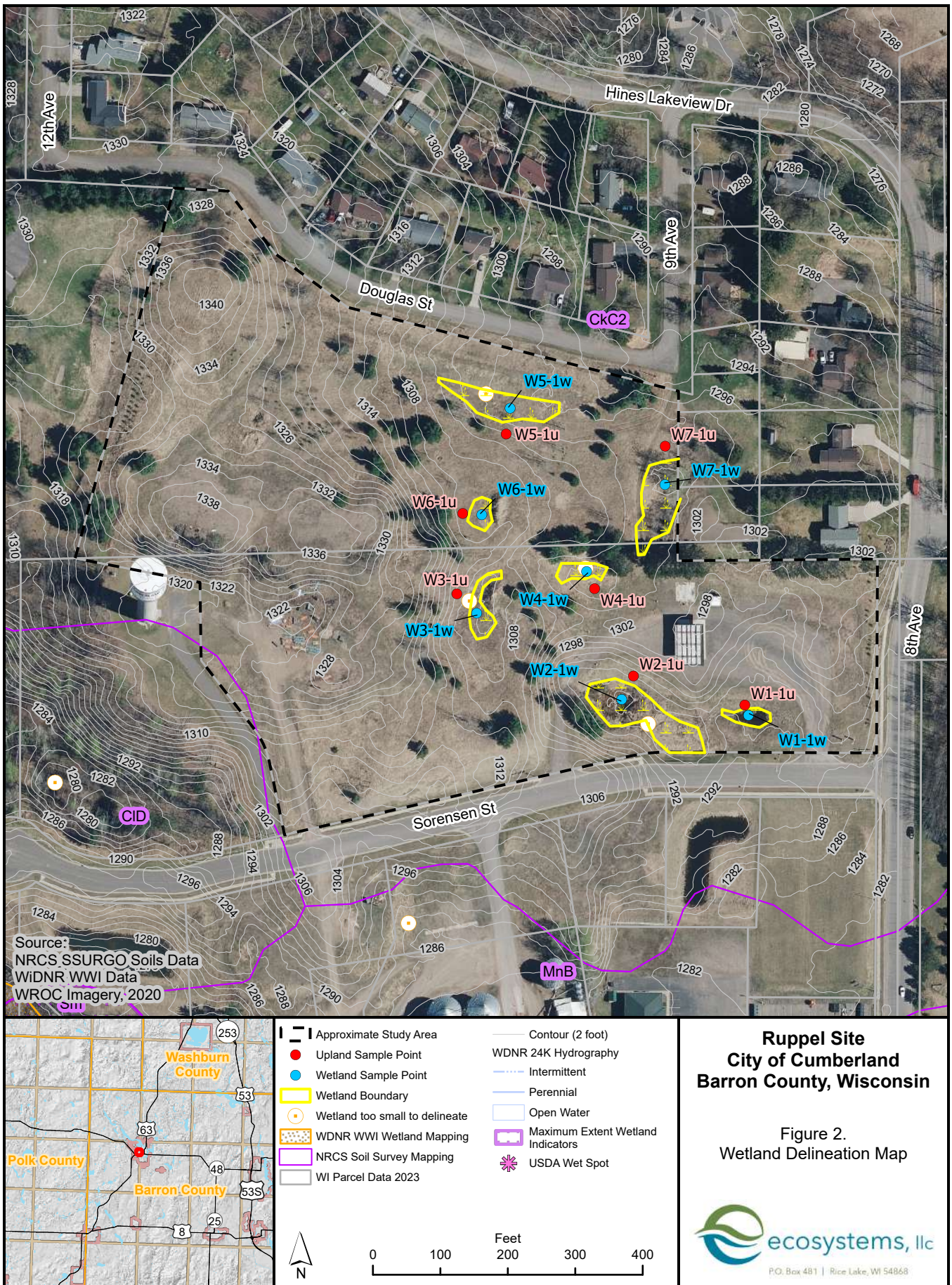
Miles

**Ruppel Site**  
**City of Cumberland**  
**Barron County, Wisconsin**

Figure 1.  
 Project Location Map

ecosystems, llc

P.O. Box 481 | Rice Lake, WI 54868



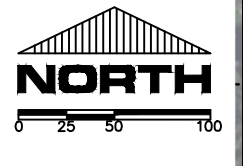


November 4, 2024

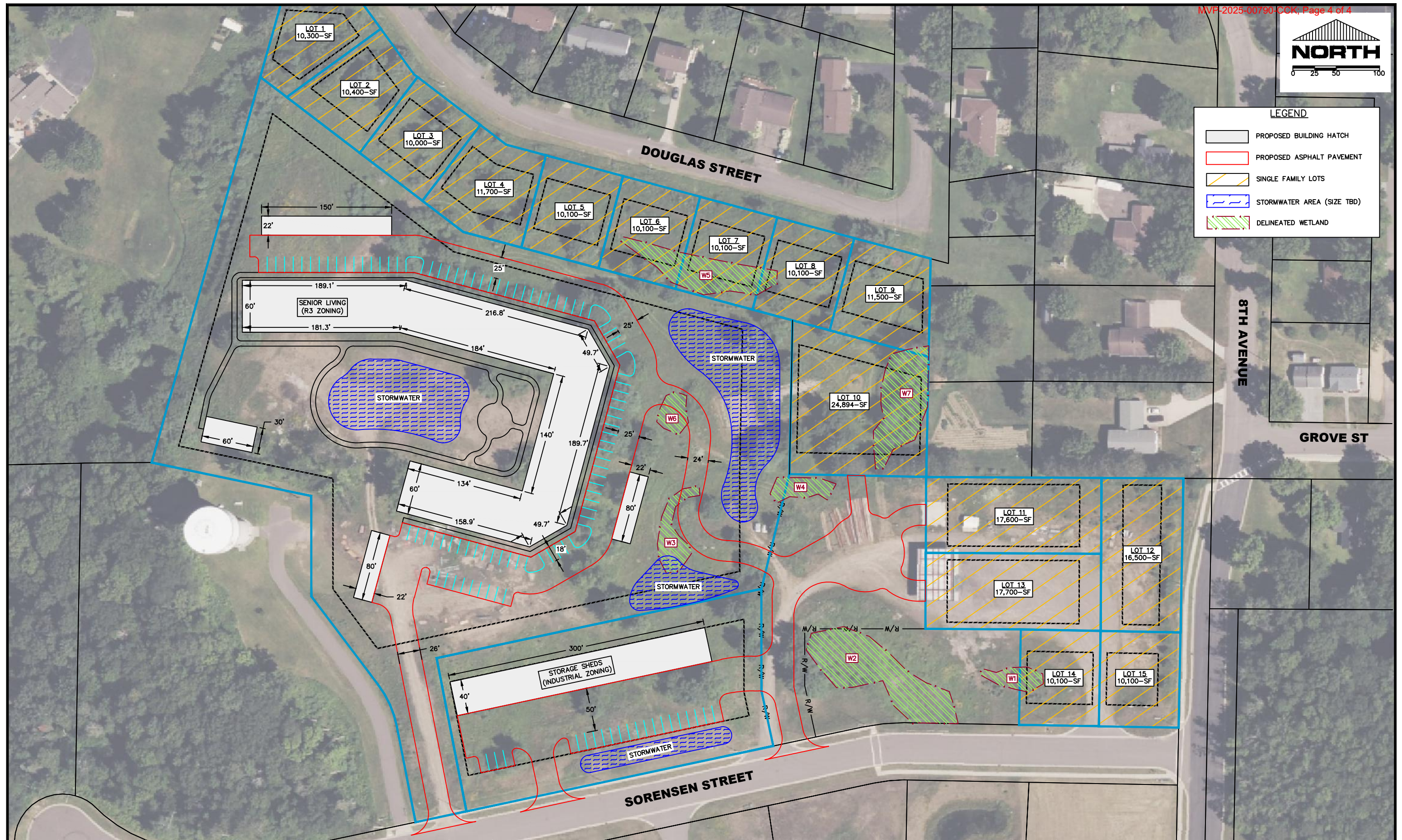
**Wetlands**

- |                                |                                   |          |
|--------------------------------|-----------------------------------|----------|
| Estuarine and Marine Deepwater | Freshwater Emergent Wetland       | Lake     |
| Estuarine and Marine Wetland   | Freshwater Forested/Shrub Wetland | Other    |
|                                | Freshwater Pond                   | Riverine |

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.



LEGEND	
	PROPOSED BUILDING HATCH
	PROPOSED ASPHALT PAVEMENT
	SINGLE FAMILY LOTS
	STORMWATER AREA (SIZE TBD)
	DELINEATED WETLAND



NO.	DATE	REVISIONS	DRAFTED BY	DESIGN BY	CHECKED

PROJ. NO.  
25049



ADVANCED ENGINEERING CONCEPTS  
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EAU CLAIRE, WI 54701  
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CONCEPTUAL SITE PLAN

CUMBERLAND SITE DEVELOPMENT  
J & A NORTHWEST CONSTRUCTION  
SORENSEN STREET  
CUMBERLAND, WI

DWG NAME  
25049 PRELIM LAYOUT  
DATE  
07/2025

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