



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 28, 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-2025-01277 MFR 1 of 1²

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.

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
NE Quad Wetland (0.13 acre)	Non-Jurisdictional	Excluded (b)(3)
SW Quad Wetland (0.19 acre)	Non-Jurisdictional	Excluded (b)(3)

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 review area for this determination consists of two non-jurisdictional ditches labeled as NE Quad Wetland and SW Quad Wetland as identified on Section 1(a) of this MFR above and the attached figures labeled MVP-2025-01277-JST Project Figures – Page 1-3 of 3.

- a. Project Length (in miles): 0.22
- b. Location Description: The project/review area is located in Section 25, Township 023N, Range 019E, Brown County, Wisconsin.
- c. Center Coordinates of the Project Site (in decimal degrees)
Latitude: 44.445210 Longitude: -88.132410
- d. Nearest City or Town: De Pere
- e. County: Brown
- f. State: Wisconsin

- 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).⁸

The aquatic resources identified as SW Quad Wetland (0.19 acre) and NE Quad Wetland (0.13 acre) are linear roadside drainage ditches constructed in upland and draining only upland. This determination is supported by the NRCS Web Soil Survey which indicates that these areas are mapped in non-hydric soils. The National Hydrography Dataset (NHD) and National Wetlands Inventory (NWI) also do not show any features overlapping with SW Quad Wetland and NE Quad Wetland. A review of the US Geological Service 3DEP Hillshade, 2-ft Contour, and digital elevation model (DEM) shows that these features are located within depressional areas in higher elevations, indicating that these features were constructed in uplands. Therefore, these features were constructed as stormwater drainage features to convey runoff from the roadway. Based on a review of desktop resources, SW Quad Wetland and NE Quad Wetland are linear roadside drainage ditches constructed in upland, draining only upland, and do not carry a relatively permanent flow of water. Therefore, these aquatic resources have been determined to be Paragraph (b)(3) excluded ditches and are not subject to regulation under Section 404 of the Clean Water Act (CWA).

- 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.,

⁸ 88 FR 3004 (January 18, 2023)

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tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

N/A

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. Wisconsin Regulatory Viewer: 3DEP Hillshade Layer, 3DEP 2-foot contour layer, 3DEP Digital Elevation Model (DEM), NHD layers, USFWS NWI layer, and USDA NRCS Soils Hydric Class layer.
 - b. Google Earth Aerials dated 2018, 2025.

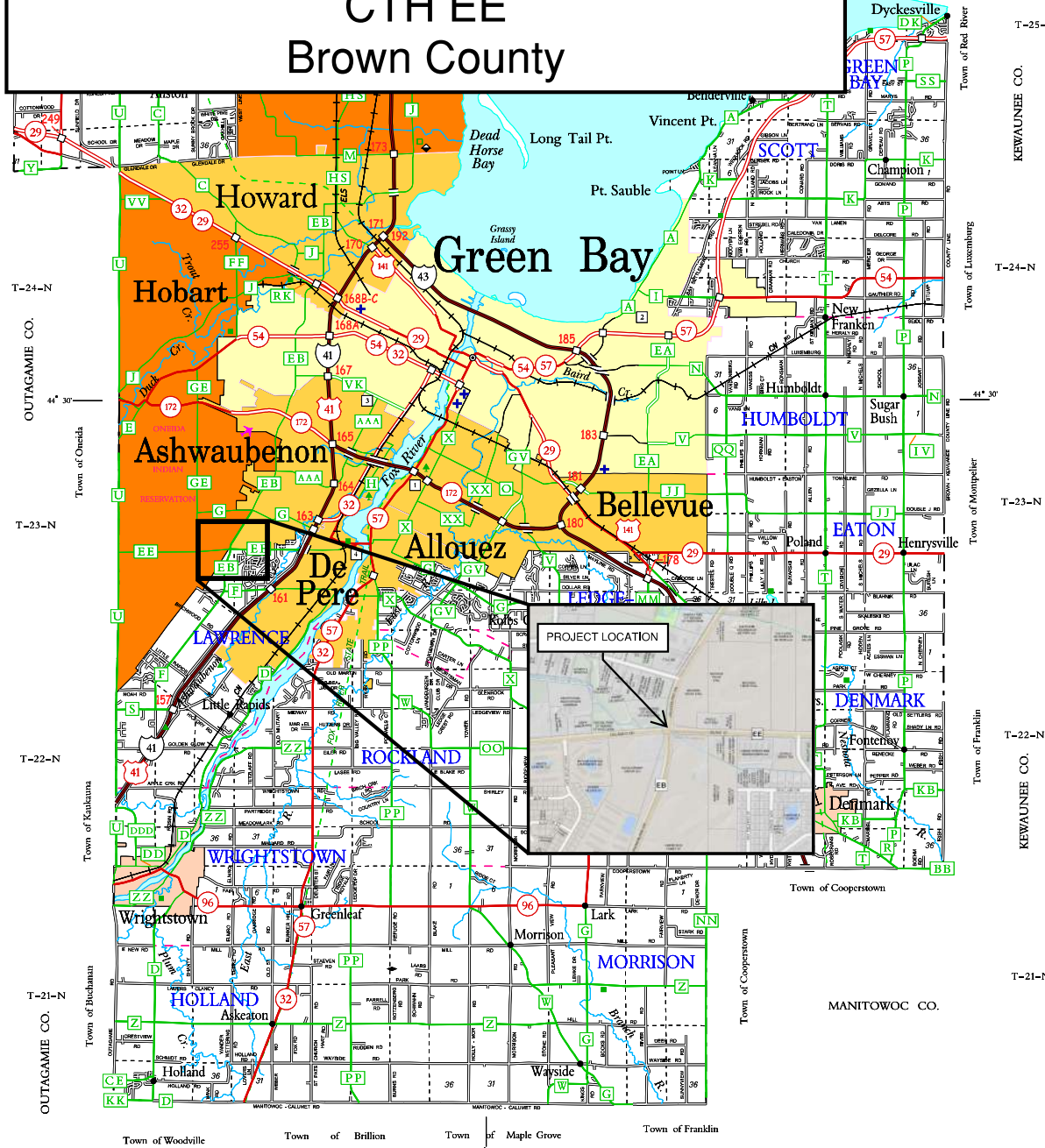
10. OTHER SUPPORTING INFORMATION. N/A

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.

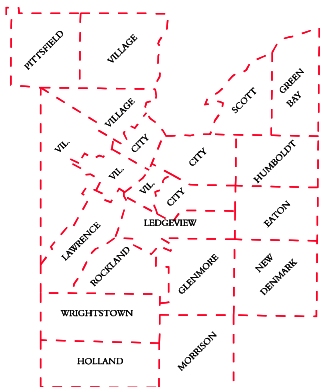
9277-03-72 Brown Co, CTH EE Navigator Way to Quarry Park Dr CTH EE Brown County

LEGEND

- Freeway
- Multilane Divided
- U.S. or State Hwy
- County Trunk Hwy
- Town Road
- Firelane
- Railroad
- State Trail
- Interchange
- Highway Separation
- Interstate Highway No.
- U.S. Highway No.
- State Highway No.
- County Highway Letter
- State Boundary
- County Boundary
- Civil Town Boundary
- Section Line
- Dam
- Hospital
- Airport
- County Seat
- Unincorporated Village
- Fish Hatchery
- Game Farm
- Public Hunt. or Fish Grds.
- Public Camp & Picnic Grds.
- Ranger Station
- State Park
- County Park
- With Facilities
- Without Facilities
- Rest area
- Modern Facilities
- Wayside
- Rural Facilities
- Green Bay Correctional Institution
- Univ. of Wisconsin - Green Bay
- Lambeau Field
- St. Norbert College



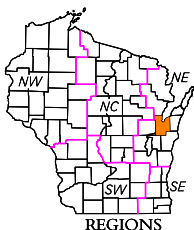
CIVIL TOWNS



→ For boundaries of public hunting and fishing grounds please contact the Department of Natural Resources

SECTION NUMBERING OF A TOWNSHIP

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36



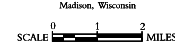
MILES OF HIGHWAY as of Dec. 31, 2019

STATE	190
COUNTY	361
LOCAL ROADS	1799
OTHER ROADS	5
TOTAL FOR COUNTY	2356

Land Area (2000 Census) 530 sq mi
Population (2000 Census) 248007
County Seat Green Bay

BROWN CO.

DEPARTMENT OF TRANSPORTATION
Madison, Wisconsin



Corrected for

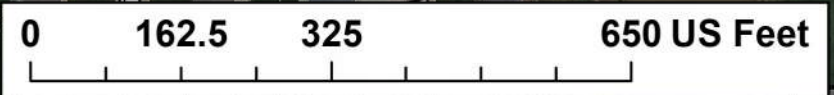
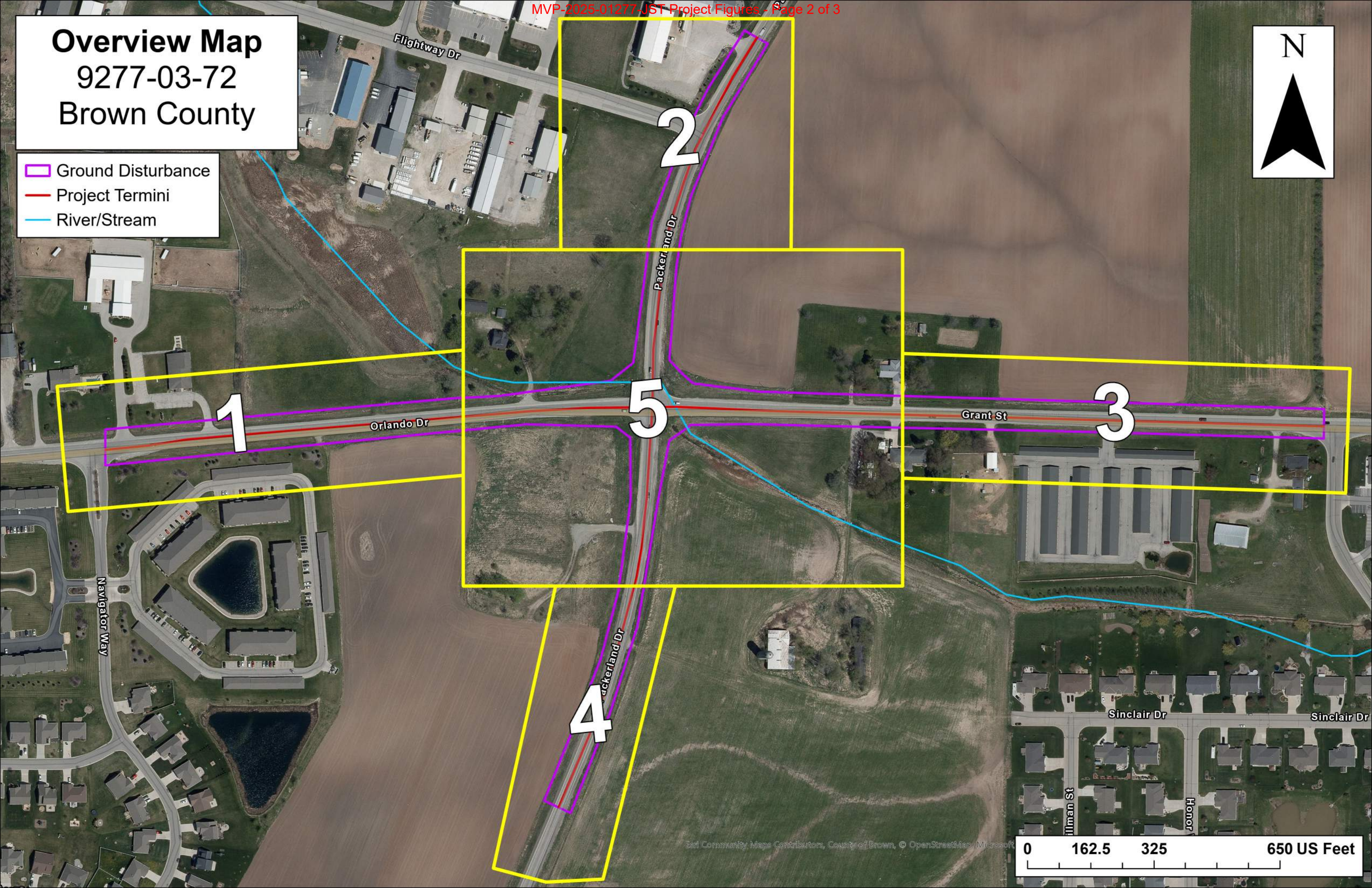
JAN. 2021

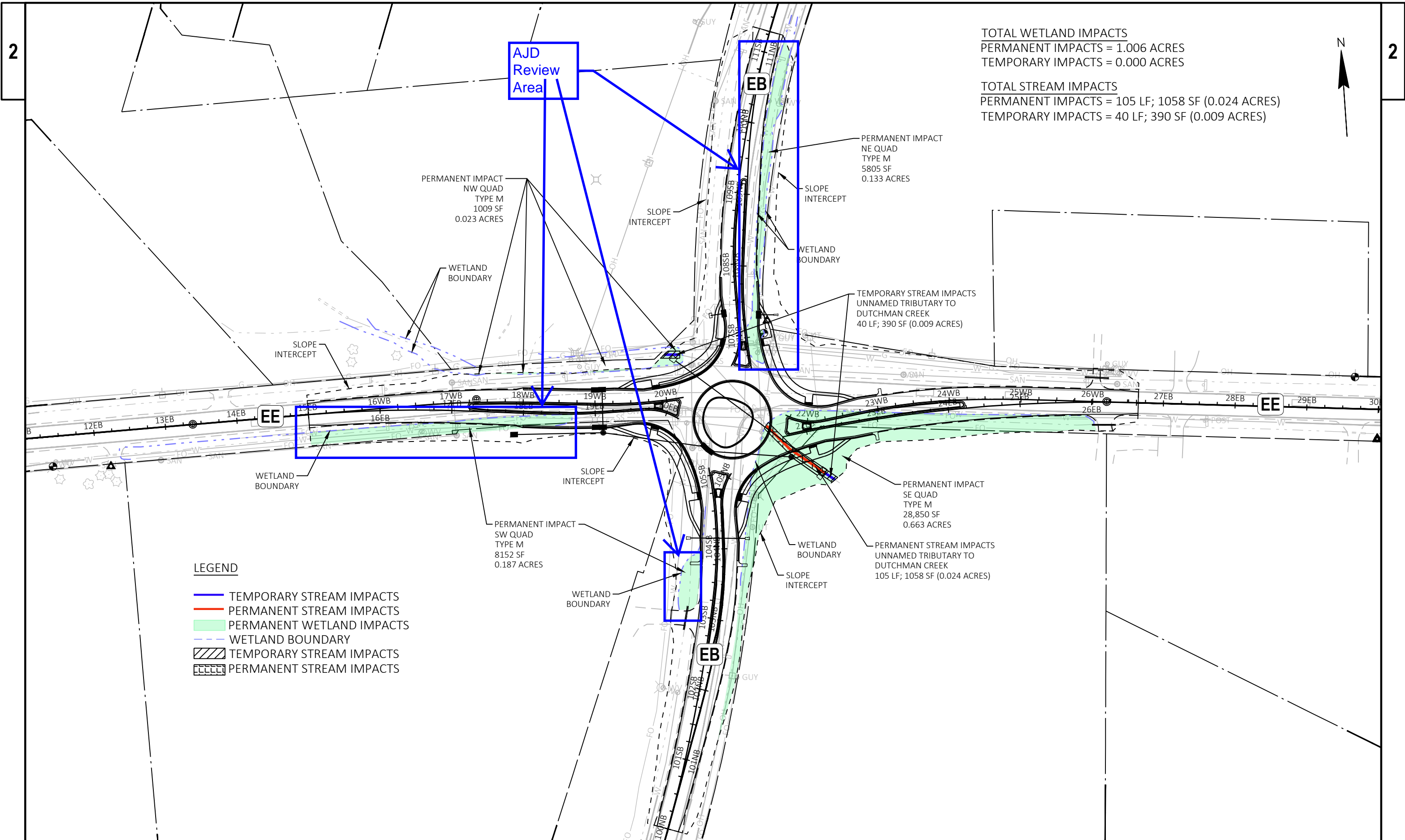
Base compiled from U.S.G.S. Quadrangles
1:100,000 Series

Overview Map

9277-03-72
Brown County

- Ground Disturbance
- Project Termini
- River/Stream





TOTAL WETLAND IMPACTS
 PERMANENT IMPACTS = 1.006 ACRES
 TEMPORARY IMPACTS = 0.000 ACRES

TOTAL STREAM IMPACTS
 PERMANENT IMPACTS = 105 LF; 1058 SF (0.024 ACRES)
 TEMPORARY IMPACTS = 40 LF; 390 SF (0.009 ACRES)

- LEGEND**
- TEMPORARY STREAM IMPACTS
 - PERMANENT STREAM IMPACTS
 - PERMANENT WETLAND IMPACTS
 - - - WETLAND BOUNDARY
 - TEMPORARY STREAM IMPACTS
 - PERMANENT STREAM IMPACTS