**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**

MVP-RD

August 17, 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-2026-00795, 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.

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. Hardwood Swamp, (2,156 sq. ft.), 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.
    a. Project Are Size (in acres): 0.83 acres
    b. Location Description: The project/review area is located in Section 05, Township 023N, Range 08E, Portage County, Wisconsin.
    c. Center Coordinates of the Project Site (in decimal degrees)
    Latitude: 44.501608934 Longitude: -89.576617847
    d. Nearest City or Town: Stevens Point
    e. County: Portage
    f. State: Wisconsin
    g. Other associated Jurisdictional Determinations (including outcomes):N/A

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[6]: 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

[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.

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] 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).

This AJD review area includes the Hardwood Swamp (2,156 sq. ft.) in the Star Environmental, Inc. wetland delineation report. Hardwood Swamp is not a TNW, territorial sea, or interstate water and therefore is not an (a)(1) water. Based on a review of the National Hydrography Dataset (NHD) the nearest waterway and potential RPW/TNW is the Wisconsin River located approximately 0.53-mile west of the review area. The WDNR 2ft LiDAR Viewer contours map shows that Hardwood Swamp is a concave feature with no surface connection to the nearest RPW or TNW. The Hardwood Swamp does not physically abut a relatively permanent paragraph (a)(2) impoundment or a jurisdictional (a)(3) tributary. The Hardwood Swamp is a non-tidal wetland that lacks a continuous surface connection to a relatively permanent water and as such does not meet the definition of adjacent and cannot be evaluated as (a)(4) an adjacent wetland; therefore, the Hardwood Swamp 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. USACE Regulatory Viewer Accessed: August 17, 2026.

b. WDNR - Surface Water Data Viewer Accessed: August 17, 2026.

[8] 88 FR 3004 (January 18, 2023)

c. Google Earth Imagery Accessed: August 17, 2026.

d. Wisconsin Wetland Inventory, USDA Web Soil Survey, and USGS NHD and Topographic Maps Accessed: August 17, for Portage County, WI.

e. USGS 1:24K Quad Name: Stevens Point.

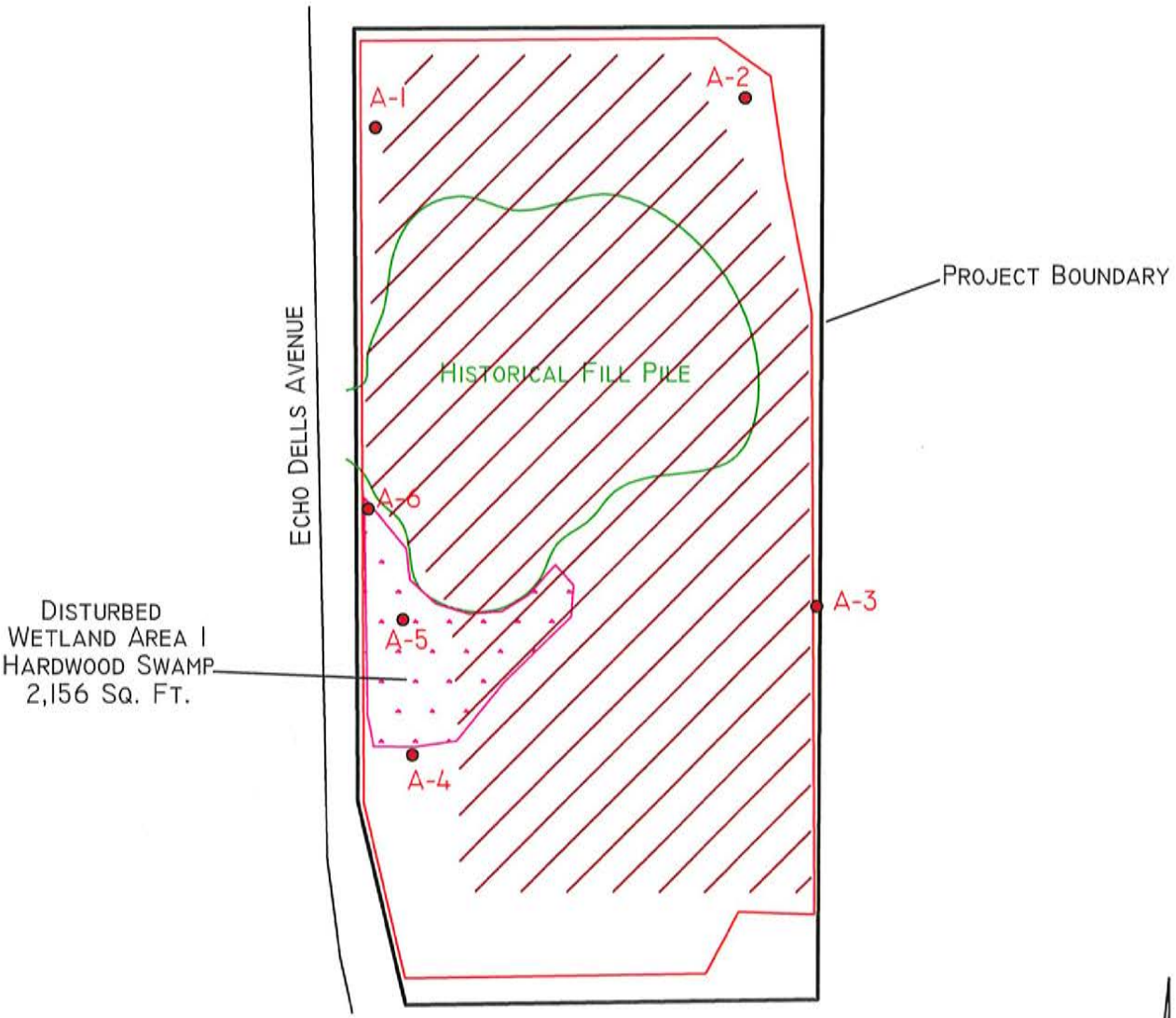
f. Office evaluation conducted on August 17, 2026.

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

# WETLAND DELINEATION MAP

JC NORTH, LLC. PROPERTY LOCATED IN THE SWI/4, SEI/4, SECTION 5,
TOWNSHIP 23 NORTH - RANGE 8 EAST, CITY OF STEVENS POINT, PORTAGE COUNTY, WISCONSIN




AREA OF WETLAND DISTURBANCE = 2,156 SQ. FT.
PORTIONS OF WETLANDS HAVE BEEN EITHER PARTIALLY FILLED WITH STUMPS BEING REMOVED DURING CLEARING OF THE LOT

N

LEGEND:

PROJECT BOUNDARY — SAMPLE POINT
WETLAND BOUNDARY — DISTURBANCE LIMITS
NEW SANDY FILL AREA

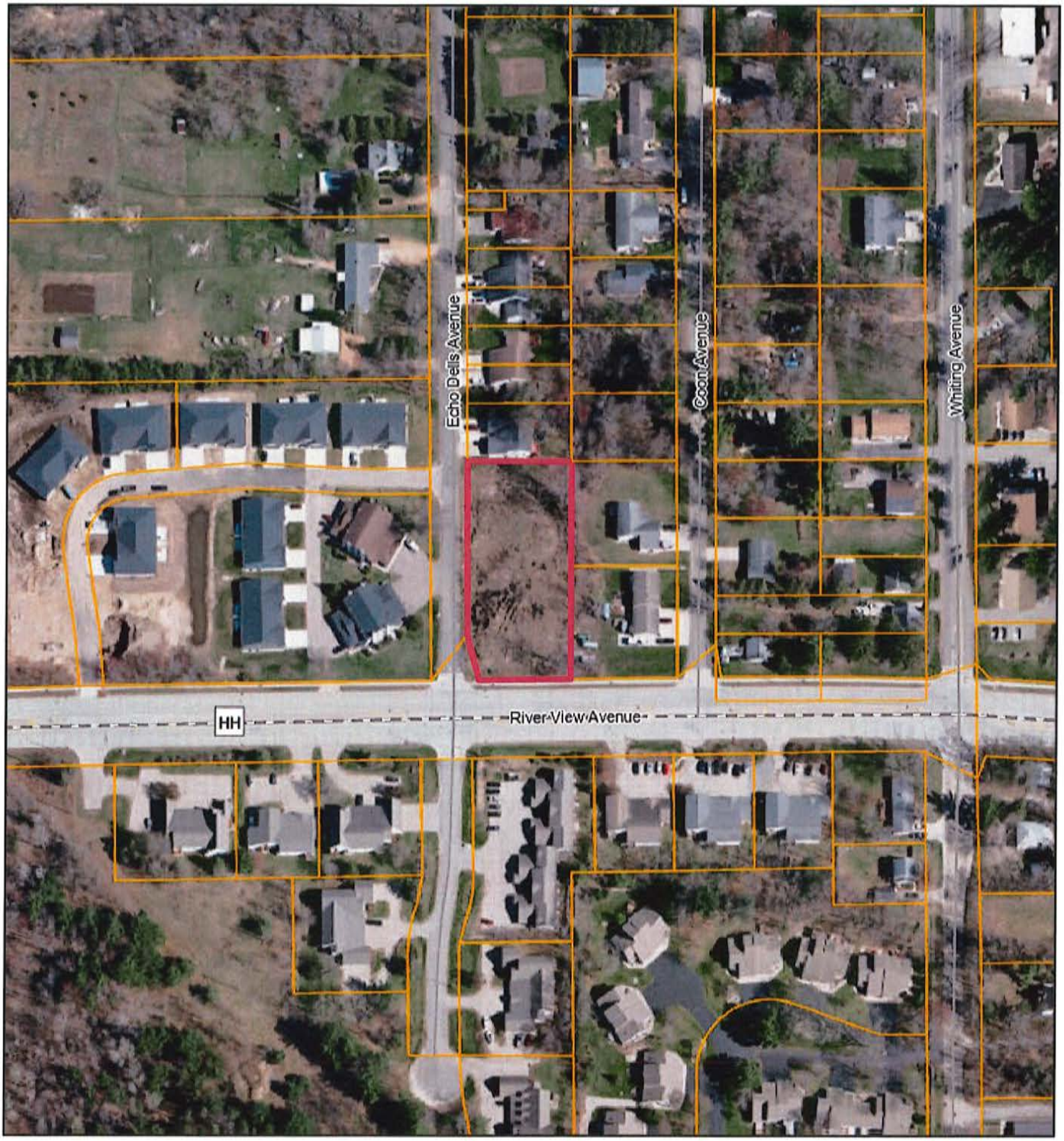
SCALE: 1" = 50' UNLESS NOTED

NOT A CERTIFIED SURVEY MAP

CREATED BY:

STAR ENVIRONMENTAL INC.
705 3RD STREET, PO BOX 434
MARATHON, WISCONSIN 54448
PHONE:(715) 443-6115
STARENVIRONMENTAL@HOTMAIL.COM

# Location Map




6/23/2026, 12:58:28 PM

1:3,081

0 100 200 400 ft

0 30 60 120 m

Roadways

County Road

Local

Parcels

2025 Air Photo

Red: Red

Green: Green

Blue: Blue

Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community

Figure 1

Portage County 2024

89° 34' 37" W

89° 34' 34" W

44° 30' 7" N

44° 30' 4" N

Map Scale: 1:501 if printed on A portrait (8.5" x 11") sheet.

N

Meters
0 5 10 20 30

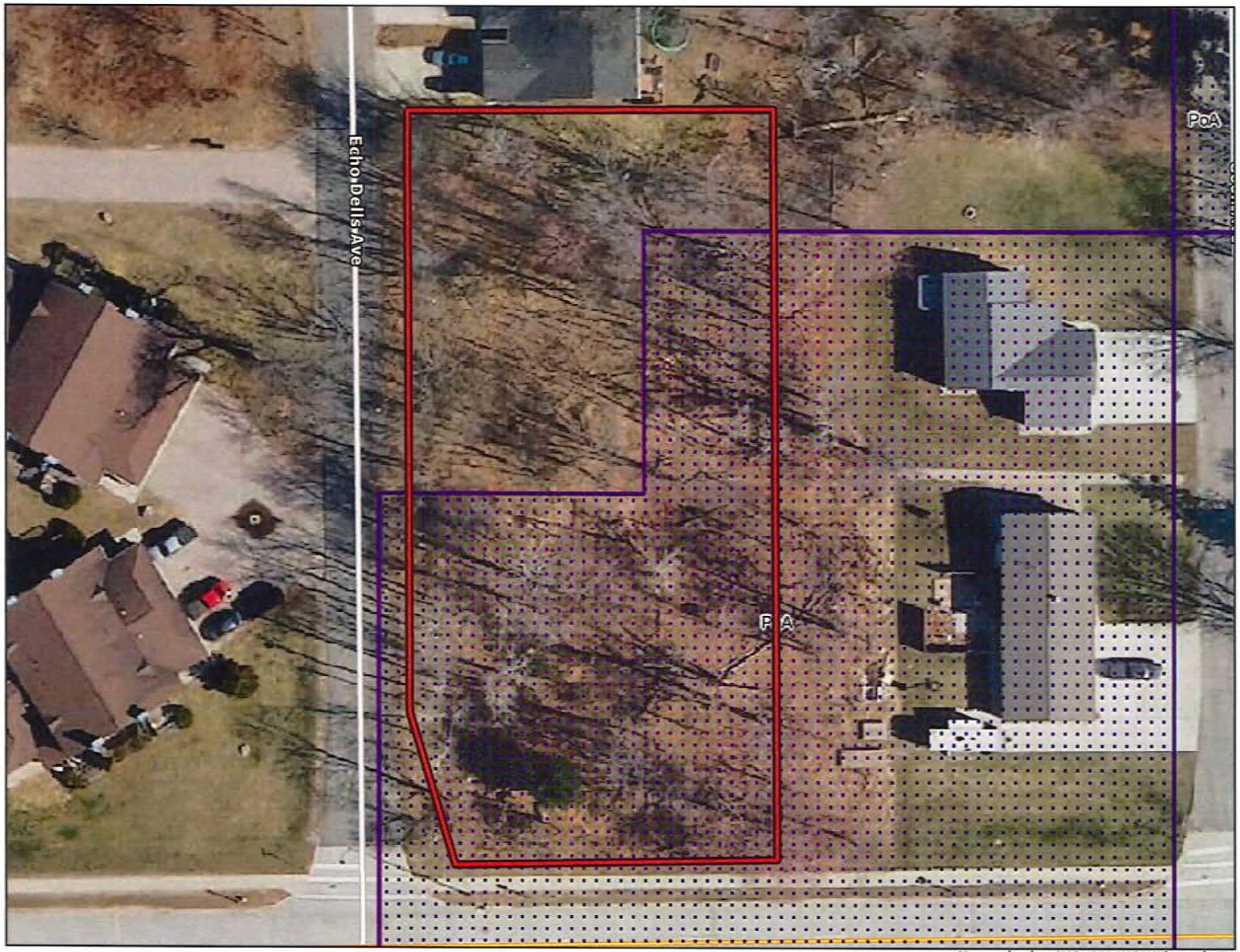
Feet
0 20 40 80 120

Map projection: Web Mercator Corner coordinates: WGS84

Figure 2

WISCONSIN DEPARTMENT OF NATURAL RESOURCES

# WWI Viewer Map




**Legend:** (some map layers may not be displayed)

- Maximum Extent Wetland Indicators

EN Image Basemap Latest Leaf Off

- Red: Band_1
- Green: Band_2
- Blue: Band_3

**Notes:**

Figure 4

Map projection: NAD 1983 HARN Wisconsin TM

N

Map: 0 50 100 Feet
0 10 20 Meters

Service Layer Credits:
WI Wetland Inventory (1:7920 and below): Calvin Lawrence, Dennis Weise, Nina Rihn, Wetland Indicators: Surface Water Data Viewer Team, WI DNR Detailed Feature Transparent Style VTL - WTM: Wisconsin Department of Natural Resources, GIS Section, EN Image Basemap Latest Leaf Off:

This map is a product generated by a DNR web mapping application.

This map is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. The user is solely responsible for verifying the accuracy of information before using for any purpose. By using this product for any purpose user agrees to be bound by all disclaimers found here: https://dnr.wisconsin.gov/legal.

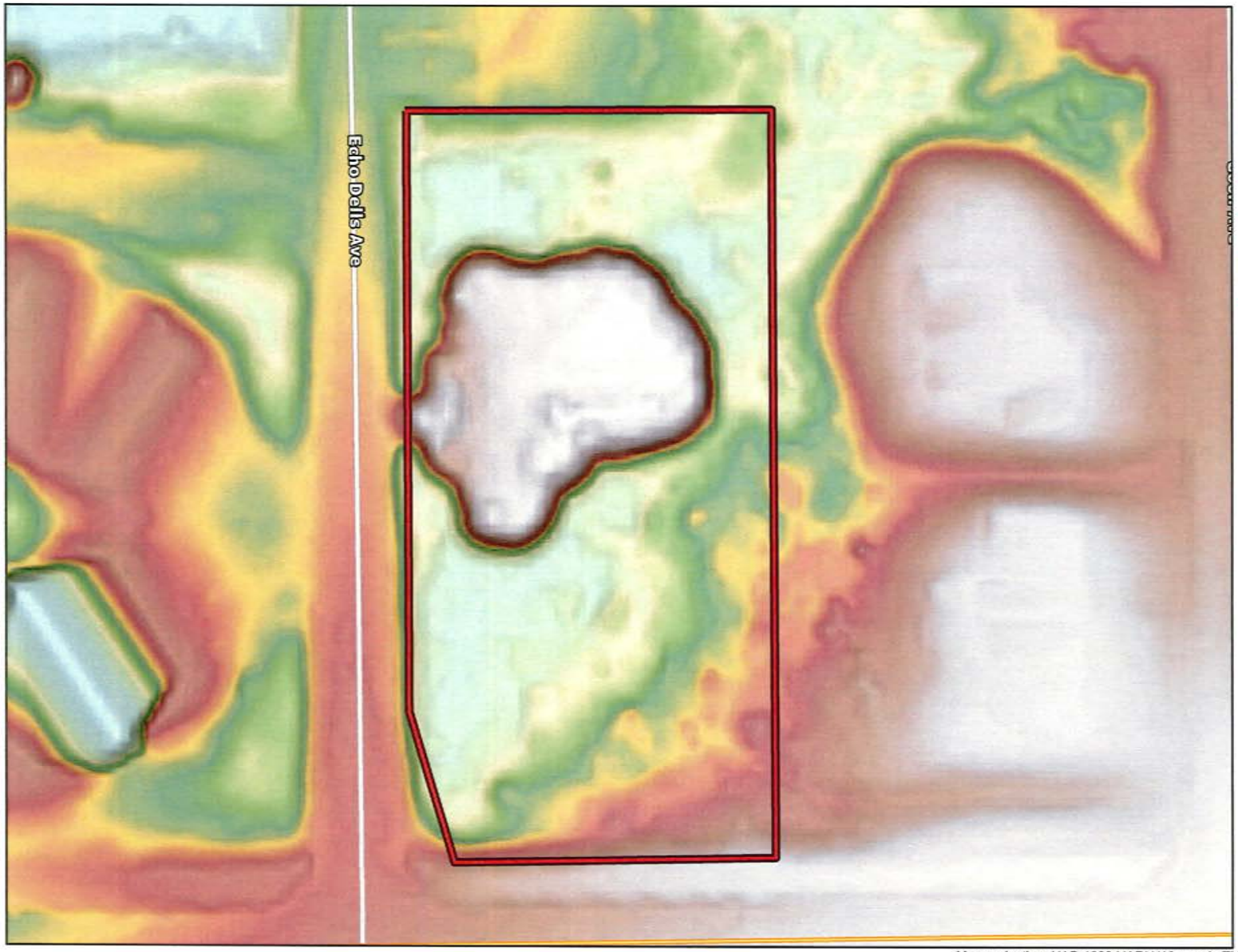
*Date Printed: 5/21/2026 10:14 AM*

Portage County Topographic Map

Figure 5

WISCONSIN DEPARTMENT OF NATURAL RESOURCES

# WWI LiDAR Viewer Map




**Legend:** (some map layers may not be displayed)

Elevation
- Red: Band_1
- Green: Band_2
- Blue: Band_3

Slope
- Red: Band_1
- Green: Band_2
- Blue: Band_3

EN Image Basemap Latest Leaf Off
- Red: Band_1
- Green: Band_2
- Blue: Band_3

**Notes:**

Map projection: NAD 1983 HARN Wisconsin TM

N

Map: 0 50 100 Feet
0 10 20 Meters

Service Layer Credits:
Slope: , Elevation: , WI DNR Detailed Feature Transparent Style VTL - WTM: Wisconsin Department of Natural Resources, GIS Section, EN Image Basemap Latest Leaf Off:

Figure 6

**This map is a product generated by a DNR web mapping application.**

This map is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. The user is solely responsible for verifying the accuracy of information before using for any purpose. By using this product for any purpose user agrees to be bound by all disclaimers found here: https://dnr.wisconsin.gov/legal.

*Date Printed: 5/21/2026 10:23 AM*