

**APPROVED JURISDICTIONAL DETERMINATION FORM**  
**U.S. Army Corps of Engineers**

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** September 5, 2019

**B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER:** MVP-2019-01570-WMS, Bretting Development Corporation

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: **WI** County/parish/borough: **Bayfield** City:

Center coordinates of site (lat/long in degree decimal format): Lat. **46.6260° N**, Long. **-90.9461° W**.

Universal Transverse Mercator: **Zone 15 North**

Name of nearest waterbody: **Bono Creek**

Name of watershed or Hydrologic Unit Code (HUC): **04010301**

- ☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.  
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

- ☒ Office (Desk) Determination. Date: **08 August 2019**  
☐ Field Determination. Date(s):

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There are no “*navigable waters of the U.S.*” within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There are no “*waters of the U.S.*” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

**1. Waters of the U.S.:** N/A

**2. Non-regulated waters/wetlands (check if applicable):<sup>1</sup>**

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  
Explain: **This jurisdictional determination is for Wetlands 10 and 11, that were identified on a parcel of property proposed for remediation of contaminated soils at the former Dupont Barksdale work site. Wetlands 10 and 11 are approximately 0.01-acre and 0.30-acre in size, respectively, and are located in depressions in the landscape that resulted from past land uses at the former industrial site. The soils are clay soils that are typical in the Lake Superior clay plain. The wetlands are not adjacent (bordering, contiguous, or neighboring) to another WOUS and are not separated from other WOUS by man-made dikes or barriers, natural river berms, or beach dunes. Due to the distance between these wetlands and the nearest waterbody there is no science-based inference that supports an ecological connection. Additionally, there is no link to interstate or foreign commerce and it is not used by interstate or foreign travelers for recreation or other purposes. These wetlands do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce, and are not known to be used for industrial purposes by industries in interstate commerce. Therefore, the Corps has determined that the subject wetlands 10 and 11 are hydrologically isolated and are not regulated by the Corps under Section 404 of the Clean Water Act.**

**SECTION III: CWA ANALYSIS**

**A. TNWs AND WETLANDS ADJACENT TO TNWs:** N/A

**B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):** N/A

**C. SIGNIFICANT NEXUS DETERMINATION:** N/A

**D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):** N/A

<sup>1</sup> Supporting documentation is presented in Section III.F.

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY): N/A

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☒ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - ☒ Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
- ☐ Other (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☒ Wetlands: 0.30 acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

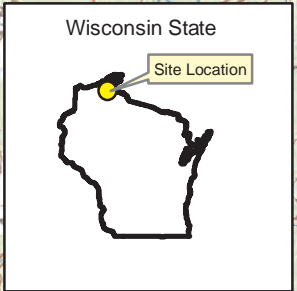
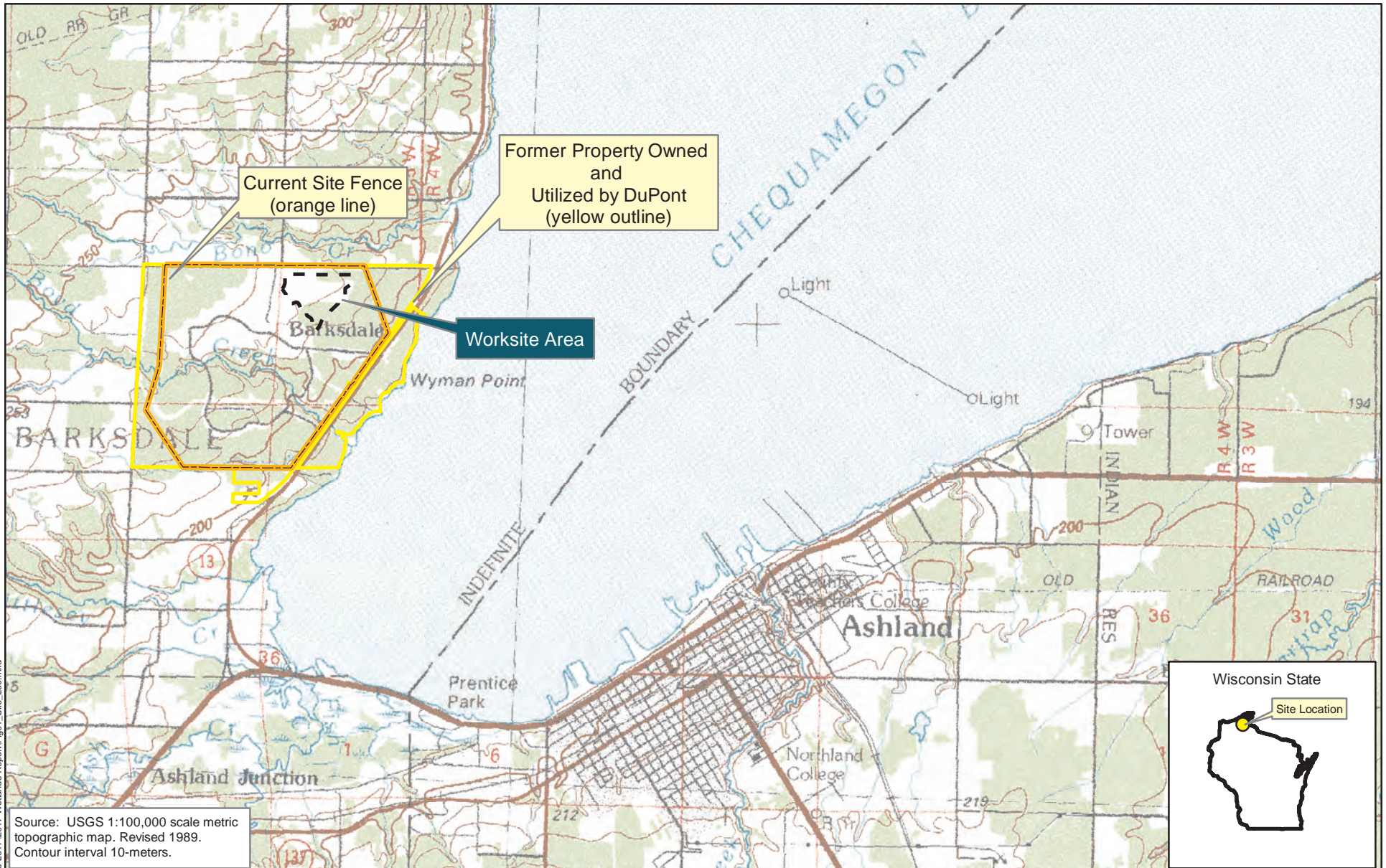
**SECTION IV: DATA SOURCES.**

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

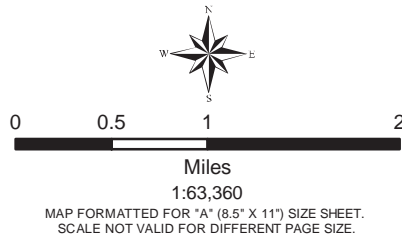
- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☒ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps:
- ☐ Corps navigable waters' study:
- ☐ U.S. Geological Survey Hydrologic Atlas:
  - ☐ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: 7.5 Minute Quadrangle - Barksdale
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation:
- ☒ National wetlands inventory map(s). Cite name: National Wetlands Inventory
- ☒ State/Local wetland inventory map(s): Wisconsin Wetland Inventory
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☐ Photographs: ☐ Aerial (Name & Date):  
or ☐ Other (Name & Date):
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): The Wisconsin Department of Natural Resources provided an artificial wetland determination for the wetlands 10 and 11 dated June 13, 2019.

B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetlands 10 and 11 are approximately 0.01-acre and 0.30-acre in size, respectively, and are located in depressions in the landscape that resulted from past land uses at the former industrial site. The soils are clay soils that are typical in the Lake Superior clay plain. The wetlands are not adjacent (bordering, contiguous, or neighboring) to another WOUS and are not separated from other WOUS by man-made dikes or barriers, natural river berms, or beach dunes. Due to the distance between these wetlands and the nearest waterbody there is no science-based inference that

supports an ecological connection. Additionally, there is no link to interstate or foreign commerce and it is not used by interstate or foreign travelers for recreation or other purposes. These wetlands do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce, and are not known to be used for industrial purposes by industries in interstate commerce. Therefore, the Corps has determined that the subject wetlands 10 and 11 are hydrologically isolated and are not regulated by the Corps under Section 404 of the Clean Water Act.



Area Map (Optional)



FILE NUMBER:

DESIGNED BY:

ES

DRAWN BY:

VJN

DATA QUALITY CHECK BY:

CEP

**AECOM**

AECOM  
500 West Jefferson Street  
Suite 1600  
Louisville, Kentucky 40202

## Regional Site Location

2018 Wetlands Report  
Former DuPont Barksdale Works  
Barksdale, Wisconsin 54806

PROJECT NUMBER:

60505619

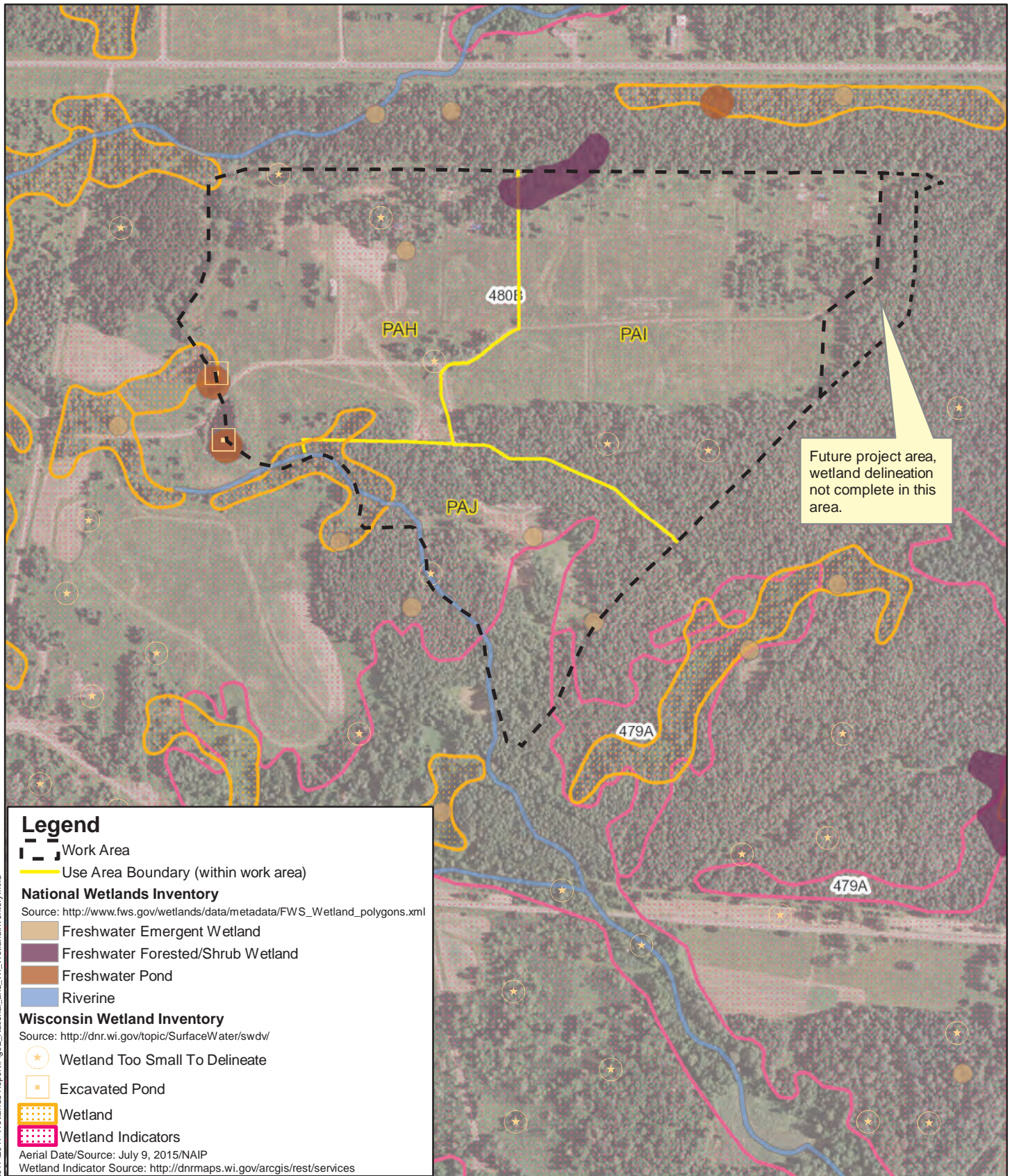
DATE:

June 2018

FIGURE NUMBER:

1





## Legend

- Work Area
- Use Area Boundary (within work area)

### National Wetlands Inventory

Source: [http://www.fws.gov/wetlands/data/metadata/FWS\\_Wetland\\_polygons.xml](http://www.fws.gov/wetlands/data/metadata/FWS_Wetland_polygons.xml)

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

### Wisconsin Wetland Inventory

Source: <http://dnr.wi.gov/topic/SurfaceWater/swdw/>

- Wetland Too Small To Delineate
- Excavated Pond
- Wetland
- Wetland Indicators

Aerial Date/Source: July 9, 2015/NAIP

Wetland Indicator Source: <http://dnrmaps.wi.gov/arcgis/rest/services>



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Feet  
1:6,000

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# AECOM

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## National and Wisconsin Wetlands Inventory Map

2018 Wetlands Report  
Former DuPont Barksdale Works  
Barksdale, Wisconsin 54806

PROJECT NUMBER:

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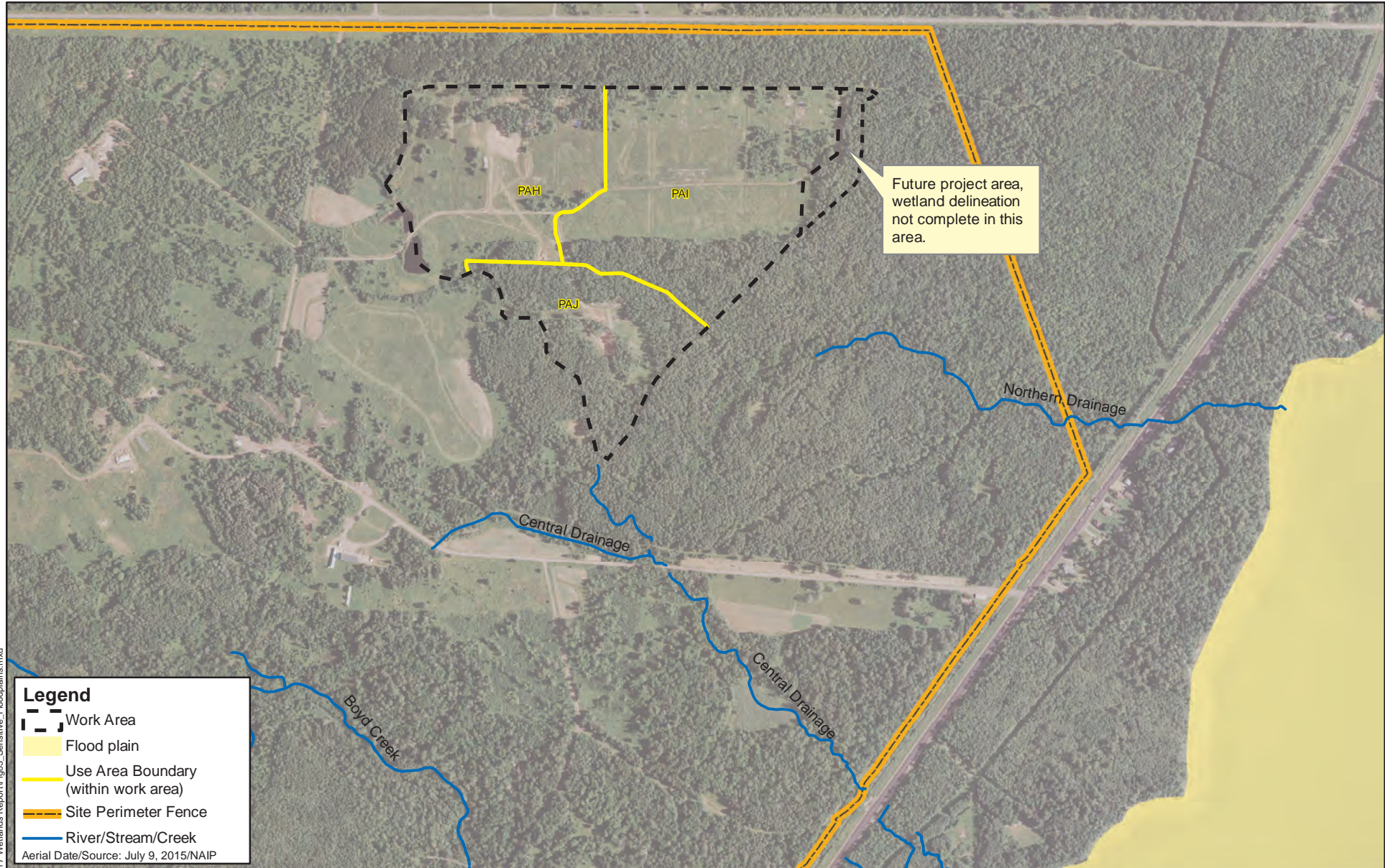
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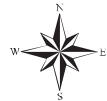


# Legend

- Work Area
- Flood plain
- Use Area Boundary (within work area)
- Site Perimeter Fence
- River/Stream/Creek

Aerial Date/Source: July 9, 2015/NAIP

Area Map (Optional)



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Louisville, Kentucky 40202

## Sensitive Areas Floodplains

2018 Wetlands Report  
Former DuPont Barksdale Works  
Barksdale, Wisconsin 54806

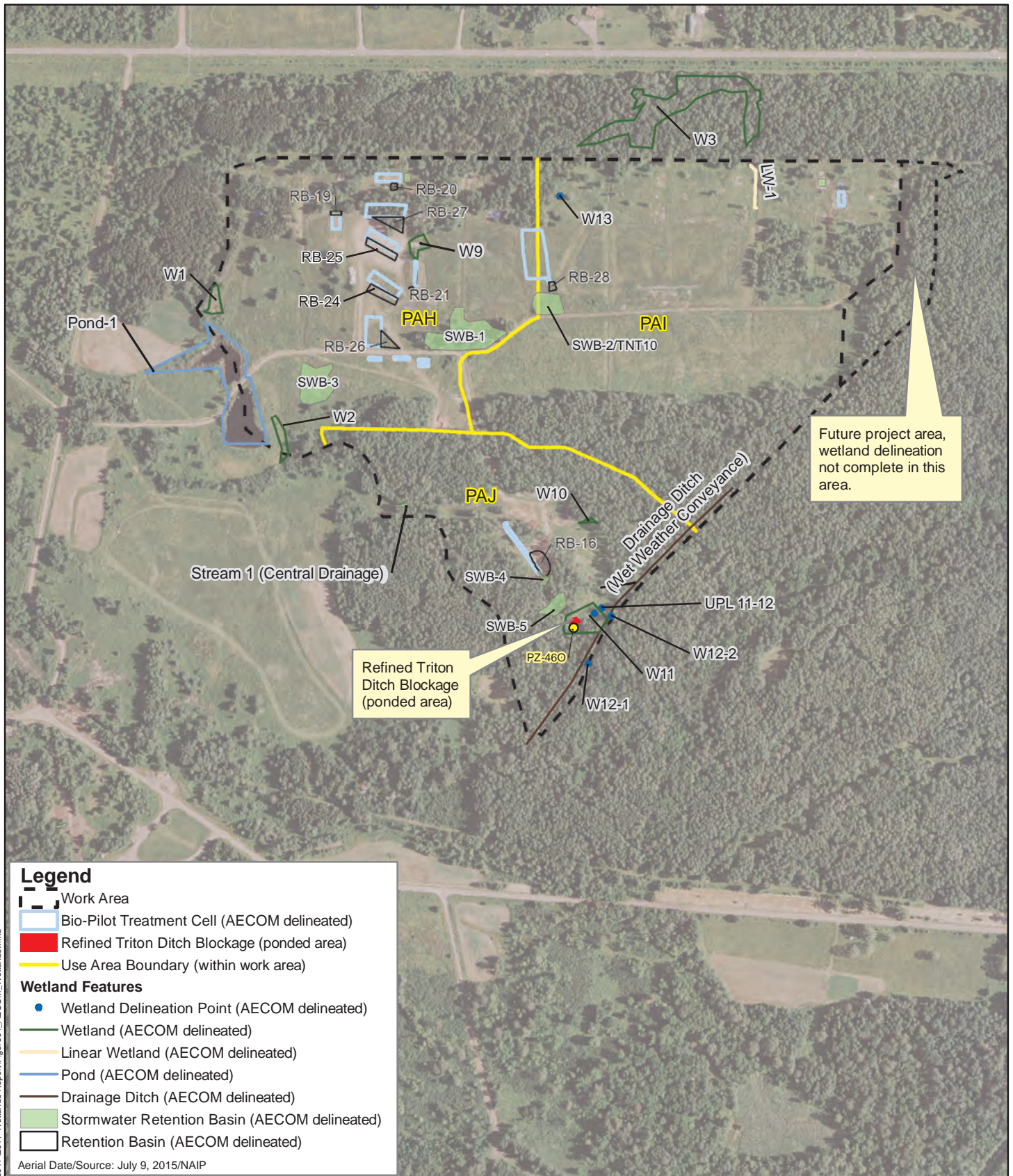
PROJECT NUMBER:  
60505619

DATE:  
June 2018

FIGURE NUMBER:

3





## Legend

- Work Area
- Bio-Pilot Treatment Cell (AECOM delineated)
- Refined Triton Ditch Blockage (ponded area)
- Use Area Boundary (within work area)

## Wetland Features

- Wetland Delineation Point (AECOM delineated)
- Wetland (AECOM delineated)
- Linear Wetland (AECOM delineated)
- Pond (AECOM delineated)
- Drainage Ditch (AECOM delineated)
- Stormwater Retention Basin (AECOM delineated)
- Retention Basin (AECOM delineated)

Aerial Date/Source: July 9, 2015/NAIP



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Wetlands Delineated by AECOM  
2015-2016

2018 Wetlands Report  
Former DuPont Barksdale Works  
Barksdale, Wisconsin 54806

PROJECT NUMBER:

60505619

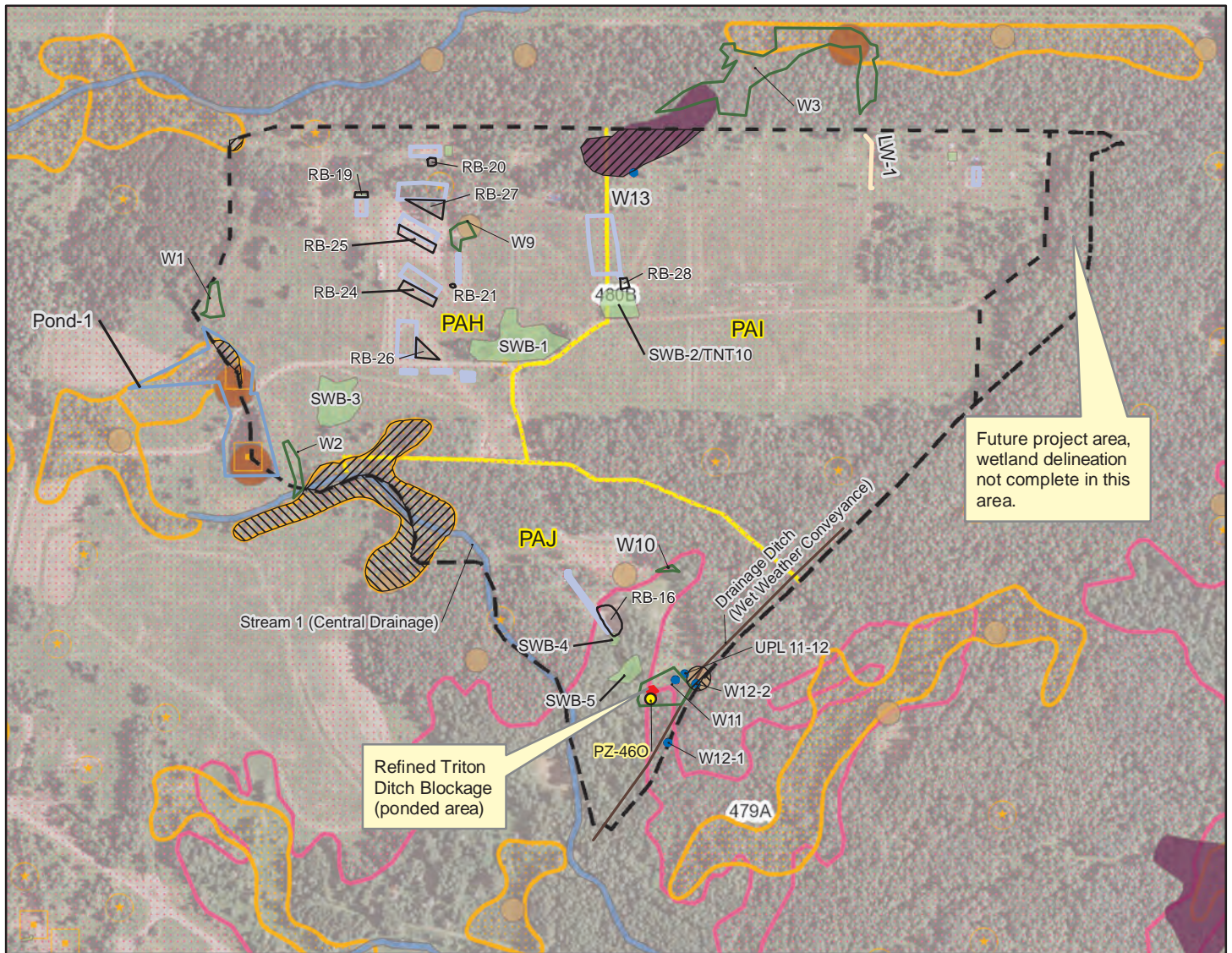
DATE:

June 2018

FIGURE NUMBER:

4





## Legend

Work Area

Bio-Pilot Treatment Cell (AECOM delineated)

Refined Triton Ditch Blockage (ponded area)

Use Area Boundary (within work area)

### Wetland Features

Wetland Delineation Point (AECOM delineated)

Wetland (AECOM delineated)

Linear Wetland (AECOM delineated)

Pond (AECOM delineated)

Drainage Ditch (AECOM delineated)

Stormwater Retention Basin (AECOM delineated)

Retention Basin (AECOM delineated)

No Wetland Present Based on Site Recon with WDNR

Inside Work Area

Outside Work Area

### National Wetlands Inventory

Source: [http://www.fws.gov/wetlands/data/metadata/FWS\\_Wetland\\_polygons.xml](http://www.fws.gov/wetlands/data/metadata/FWS_Wetland_polygons.xml)

Freshwater Emergent Wetland

Freshwater Forested/Shrub Wetland

Freshwater Pond

Riverine

### Wisconsin Wetland Inventory

Source: <http://dnr.wi.gov/topic/SurfaceWater/swdvi/>

Wetland Too Small To Delineate

Excavated Pond

Wetland

Wetland Indicators

Aerial Date/Source: July 9, 2015/NAIP

Wetland Indicator Source: <http://dnrmaps.wi.gov/arcgis/rest/services>



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Louisville, Kentucky 40202

## Comparison of Federal and State Indicators and AECOM Delineated Wetlands

2018 Wetlands Report  
Former DuPont Barksdale Works  
Barksdale, Wisconsin 54806

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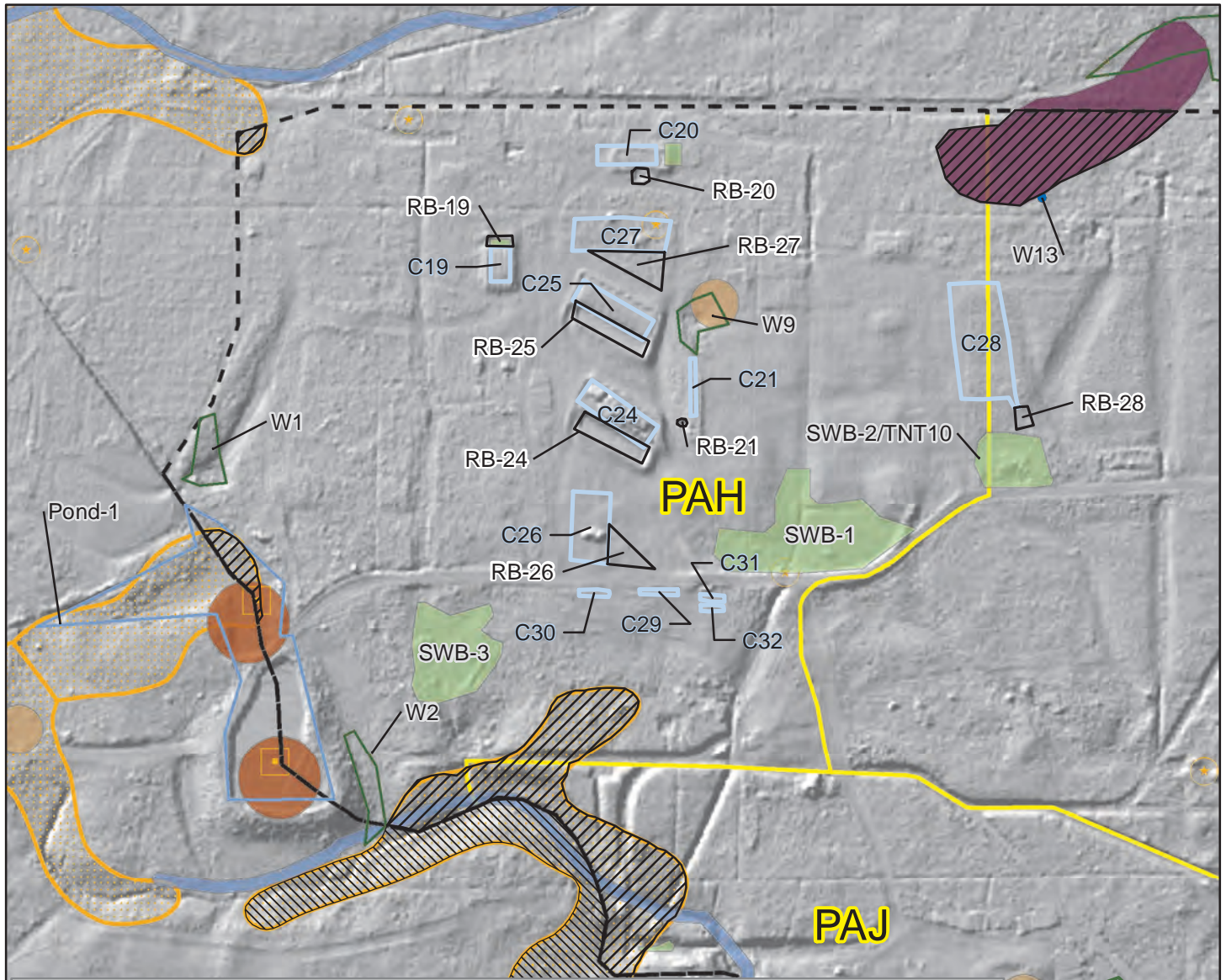
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June 2018

FIGURE NUMBER:

5





## Legend

Work Area

Bio-Pilot Treatment Cell (AECOM delineated)

Use Area Boundary (within work area)

### Wetland Features

Wetland Delineation Point (AECOM delineated)

Wetland (AECOM delineated)

Linear Wetland (AECOM delineated)

Pond (AECOM delineated)

Retention Basin (AECOM delineated)

Stormwater Retention Basin (AECOM delineated)

No Wetland Present Based on Site Recon with WDNR

Inside Work Area

Outside Work Area

### National Wetlands Inventory

Source: [http://www.fws.gov/wetlands/data/metadata/FWS\\_Wetland\\_polygons.xml](http://www.fws.gov/wetlands/data/metadata/FWS_Wetland_polygons.xml)

Freshwater Emergent Wetland

Freshwater Forested/Shrub Wetland

Freshwater Pond

Riverine

### Wisconsin Wetland Inventory

Source: <http://dnr.wi.gov/topic/SurfaceWater/swdvl/>

Wetland Too Small To Delineate

Excavated Pond

Wetland

Wetland Indicator Source: <http://dnrmaps.wi.gov/arcgis/rest/services>  
LIDAR Source: <https://maps.bayfieldcounty.org/BayfieldWAB/>



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**AECOM**

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Louisville, Kentucky 40202

Use Area PAH  
Wetlands Delineated by AECOM  
2015-2016

2018 Wetlands Report  
Former DuPont Barksdale Works  
Barksdale, Wisconsin 54806

PROJECT NUMBER:

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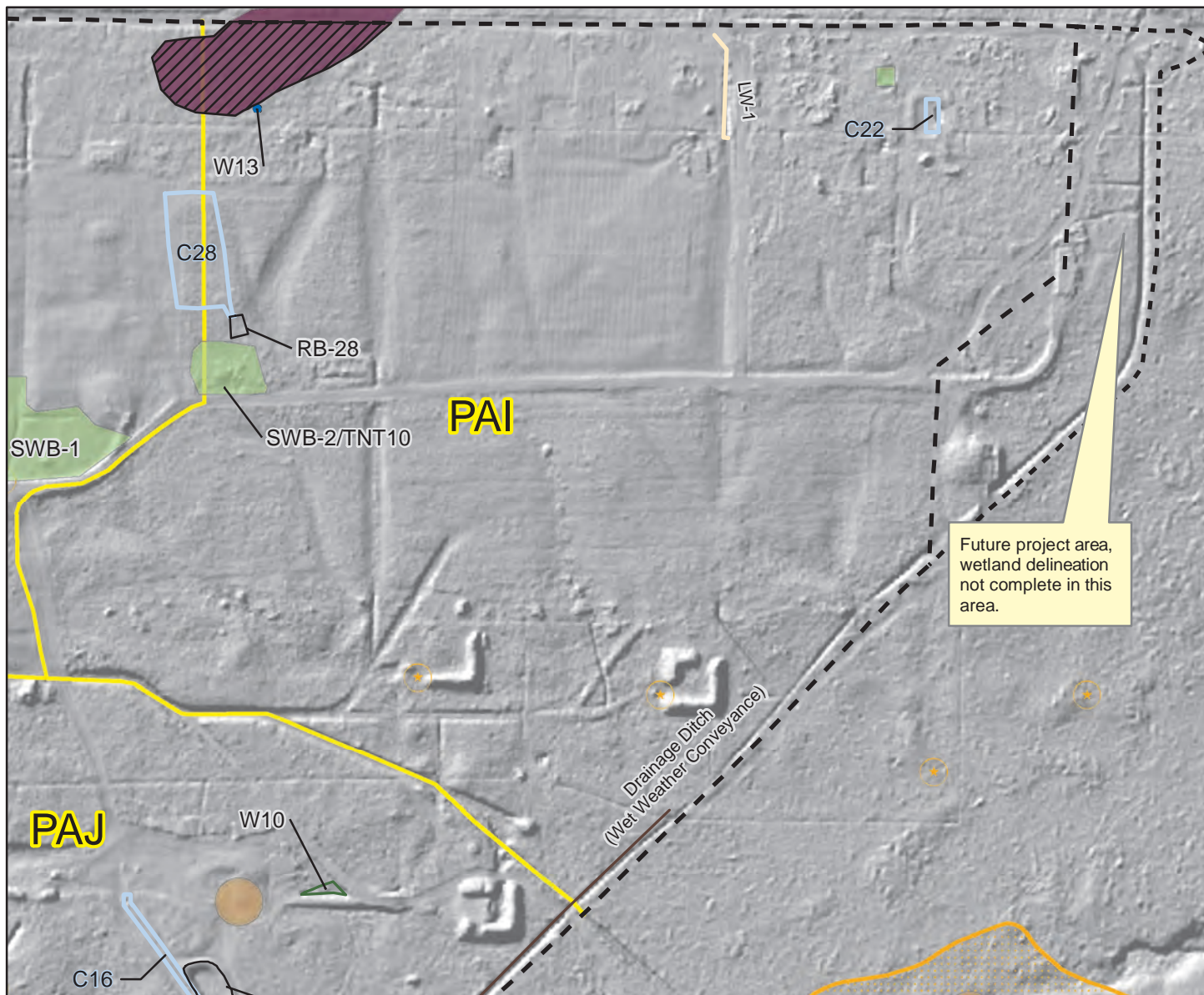
DATE:

June 2018

FIGURE NUMBER:

6





## Legend

- Work Area
- Bio-Pilot Treatment Cell (AECOM delineated)
- Use Area Boundary (within work area)
- Wetland Features**
- Wetland Delineation Point (AECOM delineated)
- Wetland (AECOM delineated)
- Linear Wetland (AECOM delineated)
- Pond (AECOM delineated)
- Drainage Ditch (AECOM delineated)
- Retention Basin (AECOM delineated)
- Stormwater Retention Basin (AECOM delineated)
- No Wetland Present Based on Site Recon with WDNR

Wetland Indicator Source: <http://dnrmaps.wi.gov/arccgis/rest/services>  
 LIDAR Source: <https://maps.bayfieldcounty.org/BayfieldWAB/>

## National Wetlands Inventory

Source: [http://www.fws.gov/wetlands/data/metadata/FWS\\_Wetland\\_polygons.xml](http://www.fws.gov/wetlands/data/metadata/FWS_Wetland_polygons.xml)

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

## Wisconsin Wetland Inventory

Source: <http://dnr.wi.gov/topic/SurfaceWater/swdvw/>

- ★ Wetland Too Small To Delineate
- Excavated Pond
- Wetland



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**AECOM**

AECOM  
 500 West Jefferson Street  
 Suite 1600  
 Louisville, Kentucky 40202

Use Area PAI  
 Wetlands Delineated by AECOM  
 2015-2016

2018 Wetlands Report  
 Former DuPont Barksdale Works  
 Barksdale, Wisconsin 54806

PROJECT NUMBER:

60505619

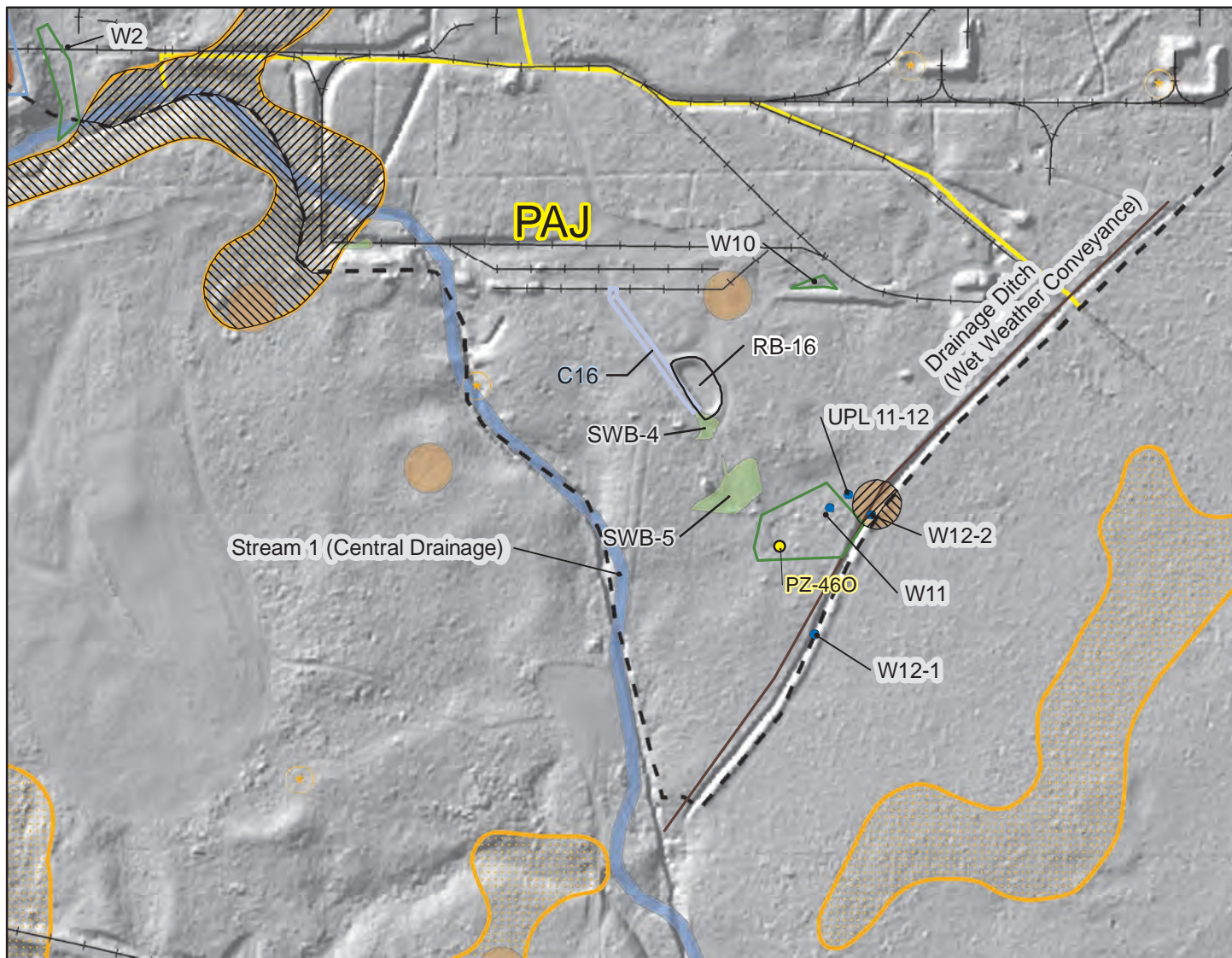
DATE:

June 2018

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7





## Legend

- Work Area
- Bio-Pilot Treatment Cell (AECOM delineated)
- Use Area Boundary (within work area)

### Wetland Features

- Wetland Delineation Point (AECOM delineated)
- Wetland (AECOM delineated)
- Linear Wetland (AECOM delineated)
- Pond (AECOM delineated)
- Drainage Ditch (AECOM delineated)
- Former Railroad
- Stormwater Retention Basin (AECOM delineated)
- Retention Basin (AECOM delineated)
- No Wetland Present Based on Site Recon with WDNR
- Inside Work Area
- Outside Work Area

Wetland Indicator Source: <http://dnrmaps.wi.gov/arccgis/rest/services>  
 LIDAR Source: <https://maps.bayfieldcounty.org/BayfieldWAB/>

### National Wetlands Inventory

Source: [http://www.fws.gov/wetlands/data/metadata/FWS\\_Wetland\\_polygons.xml](http://www.fws.gov/wetlands/data/metadata/FWS_Wetland_polygons.xml)

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

### Wisconsin Wetland Inventory

Source: <http://dnr.wi.gov/topic/SurfaceWater/swdvi/>

- Wetland Too Small To Delineate
- Excavated Pond
- Wetland



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# AECOM

AECOM  
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 Suite 1600  
 Louisville, Kentucky 40202

Use Area PAJ  
 Wetlands Delineated by AECOM  
 2015-2016

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PROJECT NUMBER:

60505619

DATE:

June 2018

FIGURE NUMBER:

8