



MEMORANDUM

To: Martha Faust, Ramsey County

From: Aaron Stolte, Kimley-Horn and Associates, Inc.

Date: June 16, 2022

Subject: Rice Creek Commons Redevelopment – Wetland Status

Ramsey County requested Kimley-Horn wetland scientists review the current regulatory status of wetlands on the Rice Creek Commons Redevelopment site and conduct a site visit to assess potential risks to the County moving forward.

REGULATORY STATUS

The following bullets describe the current regulatory status of wetlands on the Rice Creek Commons Site:

- **Minnesota Wetland Conservation Act:** A Notice of Decision (NOD) was issued by the Rice Creek Watershed District (RCWS) on January 21st, 2020 which extended the validity of the original wetland boundaries and exempted all “newly created” wetland on the site. The NOD is included in Appendix A. In plain language, the NOD perpetuated the regulatory statuses and original boundaries that Ramsey County had been using to calculate impacts on the site. This decision is valid for five years, expiring on January 21st, 2025. An extension will need to be requested before this date if a replacement plan for wetland impacts is not submitted before.
- **Clean Water Act (CWA):** The US Army Corps of Engineers (USACE) issued an Approved Jurisdictional Determination (AJD) on November 16, 2020 which stated there were no waters of the US subject to USACE jurisdiction. The AJD is included in Appendix B. The AJD is valid for five years, until November 16, 2025. If an extension is needed, the whole property will need to be reevaluated for jurisdictional status based on the current rulemaking of the CWA. The CWA rulemaking has fluctuated considerably with political changes the past few administrations and is currently being reviewed by the US Supreme Court. In short, there is risk to the County if the AJD needs to be revisited as there is potential that different CWA rules could be in place that could create jurisdiction on some or all of the wetlands on the property.

SITE VISIT

Kimley-Horn wetland scientists Aaron Stolte (CMWP #1259) and Madeline Humphrey conducted a site visit on May 23, 2022 to observe the status of the wetlands on the Rice Creek Commons site. A

photolog is included in Appendix C. See Table 1 for detailed observations of the wetland areas on site. The following general observations were made:

- Generally, the 2019 desktop delineation completed for the 2020 NOD and AJD requests were accurate. Wetland boundaries on the site, especially in the northern portion of the “California” segment, have grown considerably. All of these wetland areas are currently not regulated by RCWD under WCA nor are jurisdictional by the USCE under the CWA. These boundaries will need to be delineated (likely via desktop) again if an extension is needed before permitting/construction.
- One wetland, Area 14a, located along US 10 appears to still be growing. The wetland is approximately 10-15% larger than the 2019 desktop delineation.
- Wetlands seem to be forming in most of the trenches that remain from the stormwater pipes that were removed. These trenches might also be affecting the hydrology of two regulated wetlands, Area 20 and Area 22/26. Area 22/26 is a site of particular concern because that site was intended for preservation with the Rice Creek Commons redevelopment.
- Some plant communities that were originally identified as Type 1-Seasonally Flooded Basins and Type 2-Fresh (Wet) Meadow wetland plant communities have gotten “wetter” and are now closer to Type 3-Shallow Marsh and Type 4-Deep Marsh plant communities.

CONCLUSION

Kimley-Horn reviewed the regulatory status for and completed a site visit at the Rice Creek Commons Redevelopment property for Ramsey County. The following items are key topics related to wetlands on the site:

- Both the NOD and AJD expire in 2025, specifically January and November, respectively. If final approvals are not obtained before this date, an extension of these decisions may be needed which may change the regulatory status on the site.
- The site visit confirmed the desktop delineation that was completed in 2019; the wetlands have expanded considerably since the stormwater infrastructure was removed. An additional delineation may be needed if another extension is requested for the wetland decisions.
- Area 22/26 should be monitored closely as there is some concern that the boundary may be shrinking due to lateral effect (i.e., adjacent ditch may be pulling hydrology from wetland). This wetland was anticipated to be preserved by the redevelopment project.

Table 1. Wetland Area and Jurisdiction Summary

Basin ID	2015 Wetland Area (acres) per Delineation Report	2015 RCWD NOD Incidental Area (acres)	2015 RCWD NOD Regulated Area (acres)	2019 Additional Incidental Wetland Area (acres)	Prior Building	Prior Pavement	Prior Railroad Tracks	Storm Sewer Removed
Area 1a	0.05		0.05					
Area 2c	0.11	0.11						
Area 2d	0.02		0.02					
Area 2f*				0.14				Y
Area 4	0.04		0.04					
Area 4a				0.02				Y
Area 6a				0.21				Y
Area 6b				0.17	Y	Y		Y
Area 8a				7.40	Y	Y		Y
Area 8b				0.05				Y
Area 8c				0.06				Y
Area 8d				0.59	Y			
Area 10a				0.09				Y
Area 10b				1.22				Y
Area 10c				0.04				Y
Area 10d				0.03				Y
Area 11a				2.00	Y	Y		
Area 11b				0.20				Y
Area 12	0.14	0.08	0.06					
Area 12a				0.31		Y		Y
Area 13	0.46		0.46					
Area 13a				0.11				Y
Area 13b				0.21				Y
Area 14	0.29		0.29					
Area 14a				10.11	Y	Y		Y
Area 15	0.49		0.49					
Area 15a				9.79	Y	Y		Y
Area 17	2.03	2.03						
Area 17a				3.52			Y	
Area 18/19	1.10		1.10					
Area 18/19a				0.70				Y
Area 20	0.42		0.42					
Area 22/26	4.67		4.67					
Area 22/26a				2.33				Y
Area 24	0.15	0.15						
Area 24a				0.17				Y
Area 27	0.07		0.07					
Area 28/29	0.51	0.31	0.20					
Area 30/53	0.63	0.59	0.04					
Area 30/53a				0.17			Y	
Area 30/53b				0.01			Y	
Area 30/53c				0.01				Y
Area 30/53d				0.29			Y	
Area 31a				0.06			Y	
Area 32a				1.15	Y			
Area 32b				0.33	Y			
Area 32c				0.10				Y
Area 32d				0.03				Y
Area 34	0.03		0.03					
Area 42	0.06		0.06					
Area 42 Ditch	0.31	0.31	0.00					
Area 42a				0.24				Y
Area 45	0.23	0.23						
Area 46	0.35	0.31	0.04					
Area 46a				0.15				
Area 46b				0.07				
Area 46c				0.32				
Area 47	0.08	0.08						
Area 48	0.14		0.14					
Area 49	0.15	0.15						
Area 50	0.38	0.38						
Area 51	0.16		0.16					
Area 51a				0.01				Y
Area 54	0.29	0.29						
Area 55	0.11		0.11					
Area 55a				0.13				Y
Area 56	1.74	1.42	0.32					
Area 56a				0.16				Y
Area 56b				0.38				Y
Area 56c				0.48	Y	Y		Y
Area 56d				0.05		Y		Y
Area 56e				0.29				Y
Area 56f				0.26				Y
Area 57	0.26	0.26						
Area 57a				0.39				Y
Area 57b				0.10				Y
Area 57c				0.05				
Area 58	0.01	0.01						
Area 60a				0.35		Y		
Area 60b				0.11				Y
	15.48	6.71	8.77**	45.14				

* Green highlighted wetlands are new incidental wetlands since 2015 NOD due to site grading

**Total onsite wetlands regulated under WCA

Appendix A: WCA NOD

Minnesota Wetland Conservation Act Notice of Decision

Local Government Unit: Rice Creek Watershed District	County: Ramsey
Applicant Name: Ramsey County Public Works	Applicant Representative: Nicklaus Fischer
Project Name: TCAAP redevelopment area regional SW discussion	LGU Project No. (if any): 13-140R
Date Application Received by LGU: 12/03/2019	
Date of LGU Decision: 1/21/2020	
Date this Notice was Sent: 1/21/2020	

WCA Decision Type - check all that apply

<input checked="" type="checkbox"/> Wetland Boundary/Type	<input type="checkbox"/> Sequencing	<input type="checkbox"/> Replacement Plan	<input type="checkbox"/> Bank Plan (not credit purchase)
<input checked="" type="checkbox"/> No-Loss (8420.0415)	<input type="checkbox"/> Exemption (8420.0420)		
Part: <input checked="" type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E <input type="checkbox"/> F <input type="checkbox"/> G <input type="checkbox"/> H		Subpart: <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9	

Replacement Plan Impacts (replacement plan decisions only)

Total WCA Wetland Impact Area:
Wetland Replacement Type: <input type="checkbox"/> Project Specific Credits: <input type="checkbox"/> Bank Credits:
Bank Account Number(s):

Technical Evaluation Panel Findings and Recommendations (attach if any)

<input type="checkbox"/> Approve <input checked="" type="checkbox"/> Approve w/Conditions <input type="checkbox"/> Deny <input type="checkbox"/> No TEP Recommendation A meeting was attended by representatives from BWSR, RCD, and RCWD on 1/13/2020 to review the Extension Request for the amended 2015 Wetland Boundary and No-Loss Notice of Decision 13-140R, including the addition of a 2019 Level 1 Desktop Review of added incidental wetlands identified on the site as a result of extensive land disturbance after the original 2014 delineation was completed. The TEP requested corrections to the regulatory status of Areas 47, 48, 50, and 51 to maintain consistency with the 2015 Notice of Decision. A revised NOD Extension Request was submitted by Kimley-Horn on 1/16/2020.
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LGU Decision

<input checked="" type="checkbox"/> Approved with Conditions (specify below) ¹ <input type="checkbox"/> Approved ¹ <input type="checkbox"/> Denied List Conditions: See findings section
Decision-Maker for this Application: <input checked="" type="checkbox"/> Staff <input type="checkbox"/> Governing Board/Council <input type="checkbox"/> Other:
Decision is valid for: <input checked="" type="checkbox"/> 5 years (default) <input type="checkbox"/> Other (specify):

¹ *Wetland Replacement Plan approval is not valid until BWSR confirms the withdrawal of any required wetland bank credits. For project-specific replacement a financial assurance per MN Rule 8420.0522, Subp. 9 and evidence that all required forms have been recorded on the title of the property on which the replacement wetland is located must be provided to the LGU for the approval to be valid.*

LGU Findings – Attach document(s) and/or insert narrative providing the basis for the LGU decision¹.

<input checked="" type="checkbox"/> Attachment(s) (specify): The following attachments from the revised joint application for TCAAP Redevelopment (Rice Creek Commons) RCWD #13-140R NOD Extension Request dated and RCWD received 1/16/2020: <ul style="list-style-type: none"> • Table 1. Wetland Area and Jurisdiction Summary • Exhibit 4. 2019 RCWD Incidental and Regulated Wetlands and Aquatic Resources

Summary:

The LGU finds the wetland boundaries illustrated in the attached figure titled: Exhibit 4. 2019 RCWD Incidental and Regulated Wetlands and Aquatic Resources accurate and supported by the submitted NOD Extension Request and for the LGU administration of the WCA. Wetland areas 2c, 17, 24, 45, 47, 49, 50, 54, 57, 58, and portions of Wetland 12, 28/29, 30/53, 42, 46, and 56 meet no-loss criteria 8420.0415 A. The activity will not impact as wetland; as the areas are found to be incidental under 8420.0315 B and 8420.0105 Subpart 2.D. Further, additional wetland areas 2f, 4a, 6a-b, 8a-d, 10a-d, 11a-b, 12a, 13a-b, 14a, 15a, 17a, 18/19a, 22/26a, 24a, 30/53a-d, 31a, 32a-d, 42a, 46a-c, 51a, 55a, 56a-f, 57a-c, and 60a-b were also found to be incidental and meet no-loss criteria as supported by the 2019 Level 1 Desktop Review. Please note that this approval does not include the Rice Creek Meander Study Area. No-loss approval is conditional on the following:

- a) Appropriate erosion control measures are taken to prevent sedimentation of the wetland or of any receiving waters;
- b) The activity does not block fish activity in a watercourse, except when done purposely to prevent movement of undesirable fish species in accordance with a recommendation from the commissioner; and
- c) The activity is conducted in compliance with all other applicable federal, state, and local requirements, including best management practices according to the documents referenced in part 8420.0112, items L, M, and N, and water resource protection requirements established under Minnesota Statutes, chapter 103H.

The local government unit decision is valid for five years. However, the decision will cease to be valid before then, if the Technical Evaluation Panel determines that the wetland boundary or type has changed due to natural or artificial changes to the hydrology, vegetation, or soils of the area. The LGU finds that the wetland typing may need to be reviewed in conjunction with any future project.

Advisory Note:

A Wetland Replacement Plan application must include a statement from the MnDNR, or the applicant's licensed professional, based on MnDNR database review, as to the potential presence of an endangered or threatened species or potential impact to a rare natural community (Minn. Rules 8420.0330, subp. 3.A(5); 8420.0525). Applicants should initiate this review early.

¹ Findings must consider any TEP recommendations.

Attached Project Documents

Site Location Map Project Plan(s)/Descriptions/Reports (specify):

Appeals of LGU Decisions

If you wish to appeal this decision, you must provide a written request within 30 calendar days of the date you received the notice. All appeals must be submitted to the Board of Water and Soil Resources Executive Director along with a check payable to BWSR for \$500 *unless* the LGU has adopted a local appeal process as identified below. The check must be sent by mail and the written request to appeal can be submitted by mail or e-mail. The appeal should include a copy of this notice, name and contact information of appellant(s) and their representatives (if applicable), a statement clarifying the intent to appeal and supporting information as to why the decision is in error. Send to:

Appeals & Regulatory Compliance Coordinator
Minnesota Board of Water & Soils Resources
520 Lafayette Road North
St. Paul, MN 55155
travis.germundson@state.mn.us

Does the LGU have a local appeal process applicable to this decision?

Yes¹ No

¹If yes, all appeals must first be considered via the local appeals process.

Local Appeals Submittal Requirements (LGU must describe how to appeal, submittal requirements, fees, etc. as applicable)

See RCWD Board of Managers Resolution 2019-13 regarding delegated decisions and appeal, available at www.ricecreek.org on the Board Agendas, Minutes & Resolutions page.

Notice Distribution (include name)

Required on all notices:

<input checked="" type="checkbox"/> SWCD TEP Member: Michael Schumann	<input checked="" type="checkbox"/> BWSR TEP Member: Ben Meyer
<input type="checkbox"/> LGU TEP Member (if different than LGU contact):	
<input checked="" type="checkbox"/> DNR Representative: Jenifer Sorensen, Melissa Collins	
<input type="checkbox"/> Watershed District or Watershed Mgmt. Org.:	
<input checked="" type="checkbox"/> Applicant (notice only): Nicklaus Fischer (Ramsey County Public Works)	
<input checked="" type="checkbox"/> Agent/Consultant (notice only): Beth Kunkel (Kimley-Horn)	

Optional or As Applicable:

<input checked="" type="checkbox"/> Corps of Engineers: TBD
<input type="checkbox"/> BWSR Wetland Mitigation Coordinator (required for bank plan applications only): Tim Smith
<input checked="" type="checkbox"/> Members of the Public (notice only): Todd Blomstrom (City of Arden Hills) <input type="checkbox"/> Other:

Signature: 	Date: 4/21/20
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This notice and accompanying application materials may be sent electronically or by mail. The LGU may opt to send a summary of the application to members of the public upon request per 8420.0255, Subp. 3.

Figure 1 – TCAAP Site Locator Map

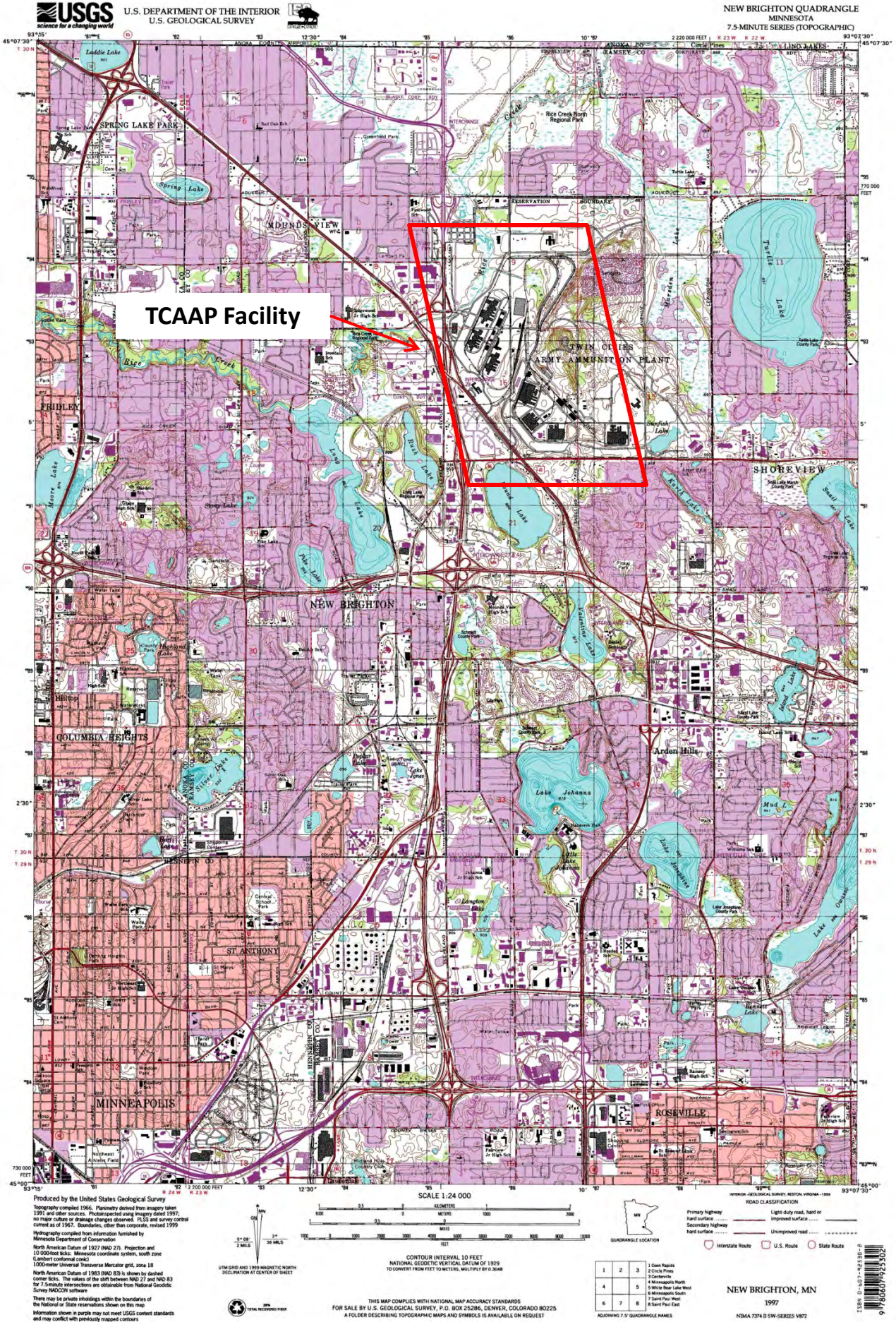
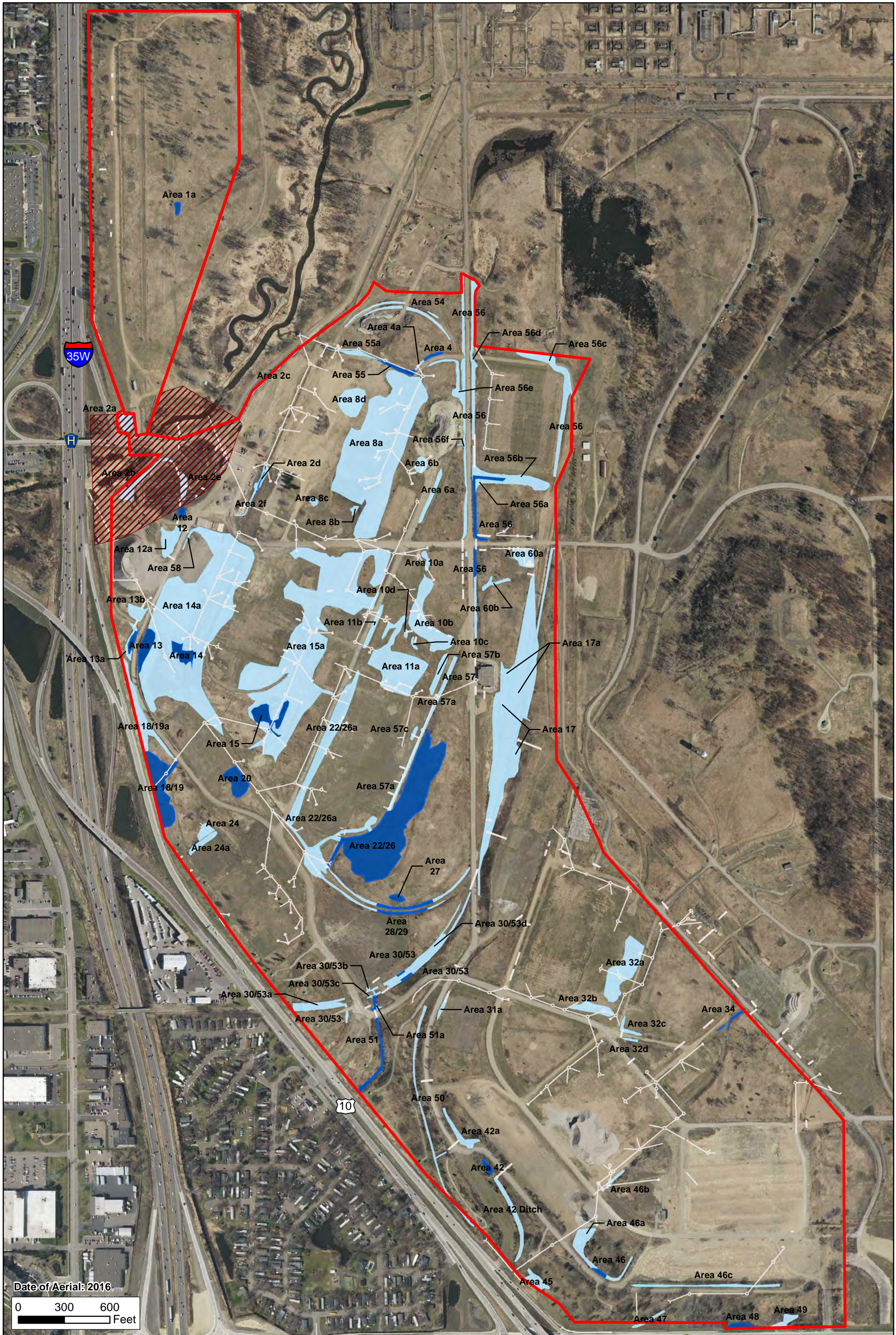


Table 1. Wetland Area and Jurisdiction Summary

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Area 2d	0.02		0.02					
Area 2f*				0.14				Y
Area 4	0.04		0.04					
Area 4a				0.02				Y
Area 6a				0.21				Y
Area 6b				0.17	Y	Y		Y
Area 8a				7.40	Y	Y		Y
Area 8b				0.05				Y
Area 8c				0.06				Y
Area 8d				0.59	Y			
Area 10a				0.09				Y
Area 10b				1.22				Y
Area 10c				0.04				Y
Area 10d				0.03				Y
Area 11a				2.00	Y	Y		
Area 11b				0.20				Y
Area 12	0.14	0.08	0.06					
Area 12a				0.31		Y		Y
Area 13	0.46		0.46					
Area 13a				0.11				Y
Area 13b				0.21				Y
Area 14	0.29		0.29					
Area 14a				10.11	Y	Y		Y
Area 15	0.49		0.49					
Area 15a				9.79	Y	Y		Y
Area 17	2.03	2.03						
Area 17a				3.52			Y	
Area 18/19	1.10		1.10					
Area 18/19a				0.70				Y
Area 20	0.42		0.42					
Area 22/26	4.67		4.67					
Area 22/26a				2.33				Y
Area 24	0.15	0.15						
Area 24a				0.17				Y
Area 27	0.07		0.07					
Area 28/29	0.51	0.31	0.20					
Area 30/53	0.63	0.59	0.04					
Area 30/53a				0.17			Y	
Area 30/53b				0.01			Y	
Area 30/53c				0.01				Y
Area 30/53d				0.29			Y	
Area 31a				0.06			Y	
Area 32a				1.15	Y			
Area 32b				0.33	Y			
Area 32c				0.10				Y
Area 32d				0.03				Y
Area 34	0.03		0.03					
Area 42	0.06		0.06					
Area 42 Ditch	0.31	0.31	0.00					
Area 42a				0.24				Y
Area 45	0.23	0.23						
Area 46	0.35	0.31	0.04					
Area 46a				0.15				
Area 46b				0.07				
Area 46c				0.32				
Area 47	0.08	0.08						
Area 48	0.14		0.14					
Area 49	0.15	0.15						
Area 50	0.38	0.38						
Area 51	0.16		0.16					
Area 51a				0.01				Y
Area 54	0.29	0.29						
Area 55	0.11		0.11					
Area 55a				0.13				Y
Area 56	1.74	1.42	0.32					
Area 56a				0.16				Y
Area 56b				0.38				Y
Area 56c				0.48	Y	Y		Y
Area 56d				0.05		Y		Y
Area 56e				0.29				Y
Area 56f				0.26				Y
Area 57	0.26	0.26						
Area 57a				0.39				Y
Area 57b				0.10				Y
Area 57c				0.05				
Area 58	0.01	0.01						
Area 60a				0.35		Y		
Area 60b				0.11				Y
	15.48	6.71	8.77**	45.14				

*Green highlighted wetlands are new incidental wetlands since 2015 NOD due to site grading

**Total on-site wetlands regulated under WCA



Date of Aerial: 2016
 0 300 600 Feet



- Project Study Area
- Rice Creek Meander Study Area
- Stormsewer Removed (2012-2016)

- Regulated Wetlands
- Incidental Wetlands

Exhibit 4. 2019 RCWD Incidental and Regulated Wetlands and Aquatic Resources

Appendix B: AJD



DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

November 16, 2020

Regulatory File No. 2009-01301-MMJ

Ramsey County
c/o Al Rupnow
1425 Paul Kirkwold Drive
Arden Hills, MN 55112

Dear Mr. Rupnow:

This is regarding your request for an approved jurisdictional determination (AJD) for the 83 aquatic resources located on the approximately 427-acre Twin Cities Army Ammunition Plant (TCAAP) site, in the City of Arden Hills. The project site is in Section 10, Township 30 North, Range 23 West, Anoka County, Minnesota. The review area for our jurisdictional determination is identified on the enclosed figures labeled 2009-01301-MMJ, TCAAP NWPR AJD Figures 1 – 7. The review area for this AJD does not include the area identified as the Rice Creek Meander Study Area on the enclosed Figures 2 & 3.

The review area for this AJD contains no waters of the United States subject to Corps of Engineers (Corps) jurisdiction. Therefore, you are not required to obtain Department of the Army authorization to discharge dredged or fill material within this area. The rationale for this determination is provided in the enclosed AJD form. This AJD replaces the AJD that was issued for this project site on January 26, 2016. This determination is only valid for the review area described above and on the enclosed Figures 1-7.

If you object to this approved jurisdictional determination, you may request an administrative appeal under Corps regulations at 33 CFR 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination, you must submit a completed RFA form to the Mississippi Valley Division Office at the address shown on the form.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR 331.5, and that it has been received by the Division Office within 60 days of the date of the enclosed NAP. It is not necessary to submit an RFA form to the division office if you do not object to the determination in this letter.

This approved jurisdictional determination may be relied upon for five years from the date of this letter. However, the Corps reserves the right to review and revise the determination in response to changing site conditions, information that was not considered during our initial review, or off-site activities that could indirectly alter the extent of wetlands and other resources on-site. This determination may be renewed at the end of the five year period provided you submit a written request and our staff are able to verify that the limits established during the original determination are still accurate.

Regulatory Branch (File No. 2009-01301-MMJ)

If you have any questions, please contact me in our St. Paul office at (651) 290-5363 or Melissa.m.jenny@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,

A handwritten signature in blue ink, appearing to read "Melissa Jenny".

Melissa Jenny
Project Manager

Enclosures:
TCAAP NWPR AJD Form and Figures 1-7
Appeals form

cc:
Ashley Payne, Agent
Ben Meyer, BWSR
Patrick Hughes, RCWD



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 11/16/2020
 ORM Number: 2009-01301-MMJ; Twin Cities Army Ammunition Plant (TCAAP) site
 Associated JDs: NA
 Review Area Location¹: State/Territory: MN City: Arden Hills County/Parish/Borough: Anoka Co.
 Center Coordinates of Review Area: Latitude 45.092342 Longitude -93.177063

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: NA
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³			
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.	N/A.	N/A.	N/A.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):			
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A.	N/A.	N/A.	N/A.

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District’s list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)):⁴ The review area for this AJD is limited to the excluded waters described below and shown on the enclosed figures labeled as 2009-01301-MMJ, TCAAP NWPR AJD Figures 1-7. (This AJD does not include the waters located within the area identified as the Rice Creek Meander Study Area on the enclosed Figures 2 & 3)

Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
80 waterbodies listed on the enclosed table (with the exception of the 3 ditch features identified below and highlighted in pink on the enclosed table and figures).	59.85	acre(s)	(b)(1) Non-adjacent wetland.	The 80 aquatic resources identified on the Twin Cities Army Ammunition Plant (TCAAP) property identified on the enclosed table and figures were determined to not be jurisdictional under the NWPR because they are physically separated and are not adjacent to any downstream jurisdictional (a)(1)-(a)(3) waters. They are not located within the floodplain of any larger downstream waters and they are not separated from downstream waters by any artificial barriers. The TCAAP site has been highly manipulated over many decades; large-scale development began on the property in the 1940's. Contamination resulting from past ammunition manufacturing operations at the TCAAP facility has been identified in groundwater, soil, sediment and surface water, and in 1983 the site was placed on the federal National Priorities List as a Superfund site. Soil cleanup activities on site have involved a large amount of ground disturbance to remove/remediate contaminated shallow soil and to remove chlorinated solvents from deep soil. The aquatic resources existing on the property today were initially constructed as linear features in upland areas to convey stormwater run-off during cleanup activities. Final remediation activities on the property involved removing the majority of the stormwater infrastructure on the site, resulting in a measurable increase of wetland acreage on the property over the last 5 years. Removal of the stormwater infrastructure on the site has severed hydrologic connections to downstream waters for the majority of the waters on the property, as highlighted on the enclosed Figures 2-6 (see legend and figures identifying "Stormwater Removed 2012-2016" and "Stormwater In-place"). Onsite waters with remaining potential hydrologic connections off-site are discussed further here: The wetlands labeled on the northeastern portion of the project site as Wetlands 56 and 56C were reviewed for potential adjacency to Rice Creek, which is an (a)(2) water. Wetlands 56 & 56C flow to the north and are

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴ The review area for this AJD is limited to the excluded waters described below and shown on the enclosed figures labeled as 2009-01301-MMJ, TCAAP NWPR AJD Figures 1-7. (This AJD does not include the waters located within the area identified as the Rice Creek Meander Study Area on the enclosed Figures 2 & 3)				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				potentially adjacent to a constructed ditch feature located north of the defined review area that flows into Rice Creek. However, similar to the ditch features described below, this ditch was constructed in upland and it is not a jurisdictional water of the U.S. Given the non-jurisdictional status of the potential connecting feature, Wetlands 56 & 56C are not adjacent to Rice Creek. The off-site constructed ditch and Rice Creek are labeled on the enclosed Figure 7.
3 waterbodies labeled on the enclosed table and figures as Area 42 Ditch, and Areas 47 and 50 (highlighted in pink on the enclosed table).	0.77	acre	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The three areas identified on the TCAAP property as Area 42 Ditch and Areas 47 and 50 (all located on the southern portion of the property and highlighted in pink on the enclosed Figure 7) were also determined to not be jurisdictional under the NWPR. These features are all existing linear ditches that may contain intermittent flow. However, after a review of historic imagery and available soils mapping for the project site we have determined that these features were constructed in upland areas and they are not jurisdictional waters of the U.S. These ditch features were not constructed in a historic tributary, they are not relocated historic tributaries, and they were not constructed in wetlands adjacent to (a)(1)-(a)(3) waters.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

Information submitted by, or on behalf of, the applicant/consultant: [Kimley-Horn updated delineation figures and AJD request dated July 30, 2020, and final information provided November 13, 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [NA](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

Photographs: [Aerial: Historic aerial imagery 1947, 1957, 1966, 1972, 1980, 1991, 2003, 2004, 2008, 2009, 2010, 2013, 2015 & 2017, and recent Google Earth imagery 1991-2020.](#)

Corps site visit(s) conducted on: [Date\(s\).](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\).](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [Anoka County](#)

USFWS NWI maps: [MnDNR](#)

USGS topographic maps: [1:24k New Brighton. Historic topographic maps dated: 1902, 1910, 1918, 1943, 1954, 1959, 1969, 1973, 1984, 1993, 1999, 2013 & 2016.](#)



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Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): NA

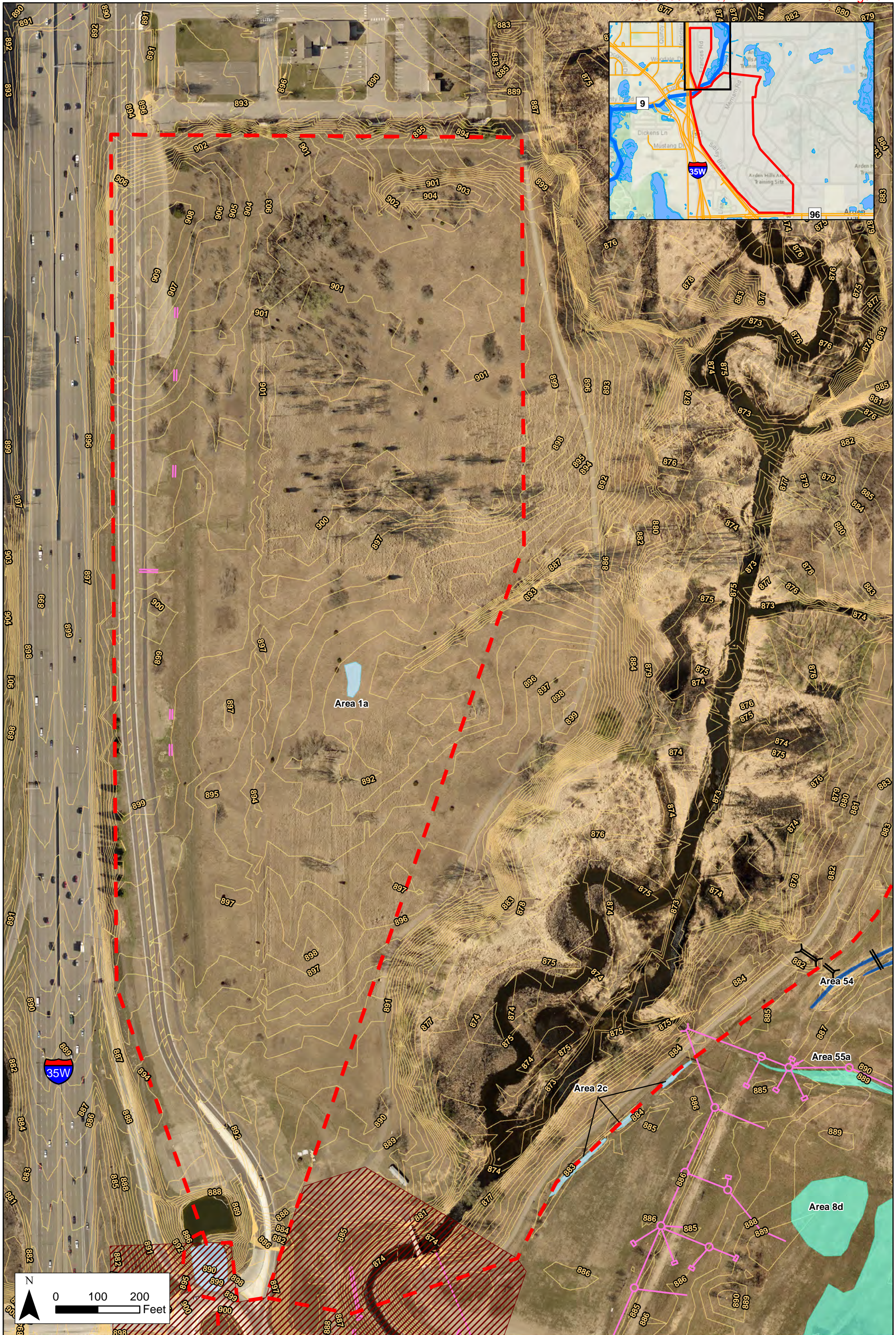
C. Additional comments to support AJD: The 83 aquatic resources identified on the TCAAP property are excluded waters under the Navigable Waters Protection Rule; they are not jurisdictional waters of the U.S.

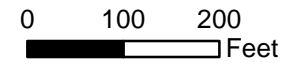
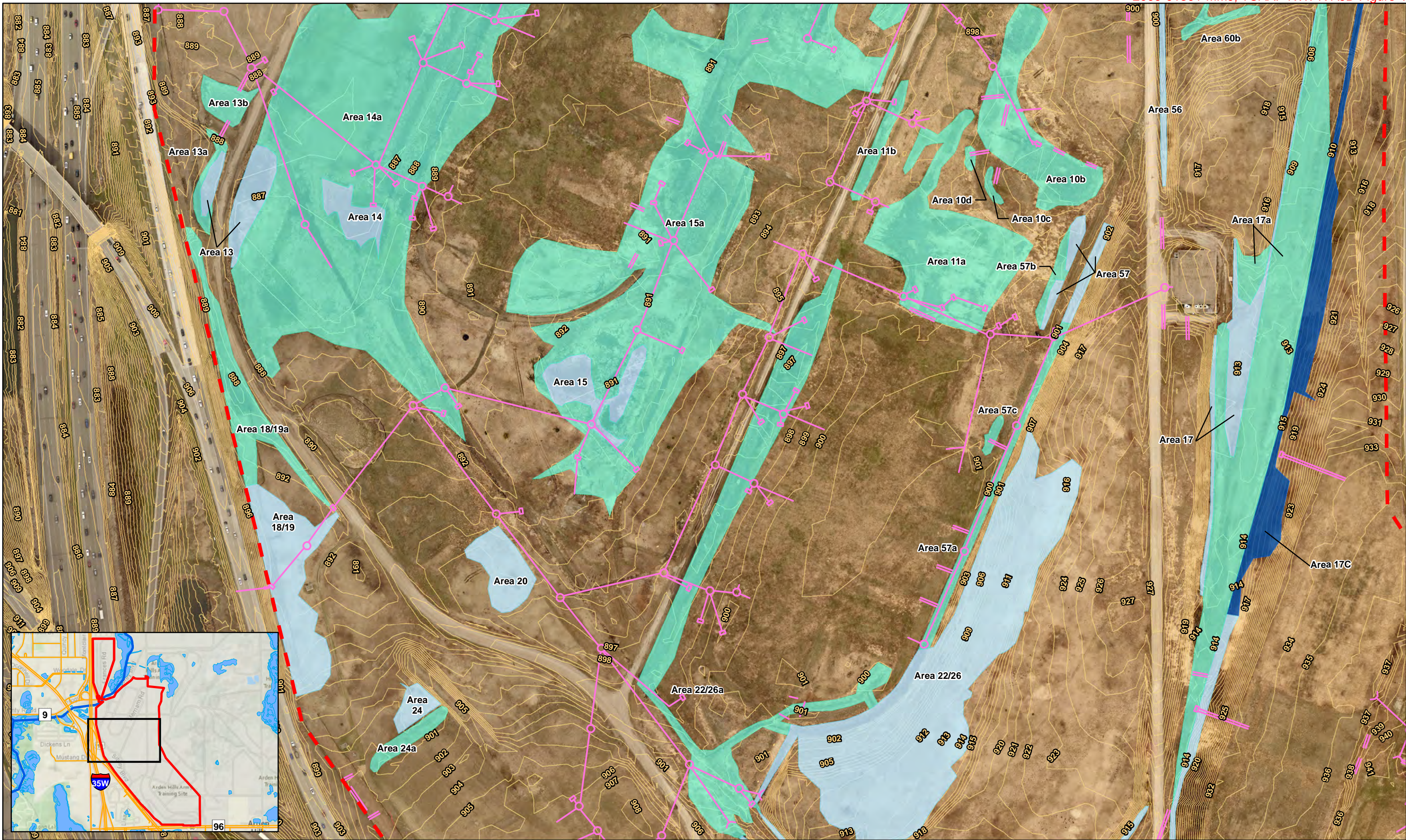
Table 1. Wetland Area and Jurisdiction Summary



Basin ID	Approximate Wetland Area (acres)
Area 1a	0.05
Area 2c	0.11
Area 2d	0.02
Area 2f*	0.14
Area 4	0.04
Area 4a	0.02
Area 6a	0.21
Area 6b	0.17
Area 8a	7.40
Area 8b	0.05
Area 8c	0.06
Area 8d	0.59
Area 10a	0.09
Area 10b	1.22
Area 10c	0.04
Area 10d	0.03
Area 11a	2.00
Area 11b	0.20
Area 12	0.14
Area 12a	0.31
Area 13	0.46
Area 13a	0.11
Area 13b	0.21
Area 14	0.29
Area 14a	10.11
Area 15	0.49
Area 15a	9.79
Area 17	1.03
Area 17a	3.52
Area 17c	1.00
Area 18/19	1.10
Area 18/19a	0.70
Area 20	0.42
Area 22/26	4.67
Area 22/26a	2.33
Area 24	0.15
Area 24a	0.17
Area 27	0.07
Area 28/29	0.51
Area 30/53	0.63
Area 30/53a	0.17
Area 30/53b	0.01
Area 30/53c	0.01
Area 30/53d	0.29
Area 31a	0.06
Area 32a	1.15
Area 32b	0.33
Area 32c	0.10
Area 32d	0.03
Area 34	0.03
Area 42	0.06
Area 42 Ditch	0.31
Area 42a	0.24
Area 45	0.23
Area 46	0.35
Area 46a	0.15
Area 46b	0.07
Area 46c	0.32
Area 47	0.08
Area 48	0.14
Area 49	0.15
Area 50	0.38
Area 51	0.16
Area 51a	0.01
Area 54	0.29
Area 55	0.11
Area 55a	0.13
Area 56	1.74
Area 56a	0.16
Area 56b	0.38
Area 56c	0.48
Area 56d	0.05
Area 56e	0.29
Area 56f	0.26
Area 57	0.26
Area 57a	0.39
Area 57b	0.10
Area 57c	0.05
Area 58	0.01
Area 60a	0.35
Area 60b	0.11
Total	60.62



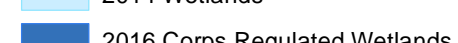
* Green highlighted wetlands are new incidental wetlands since 2015 NOD due to site grading

**Total onsite wetlands regulated under WCA





-  Project Study Area
-  Rice Creek Meander Study Area

-  Level 1 Delineated Wetlands
-  2014 Wetlands
-  2016 Corps Regulated Wetlands


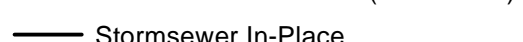
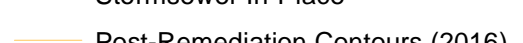
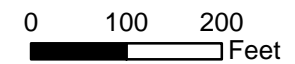
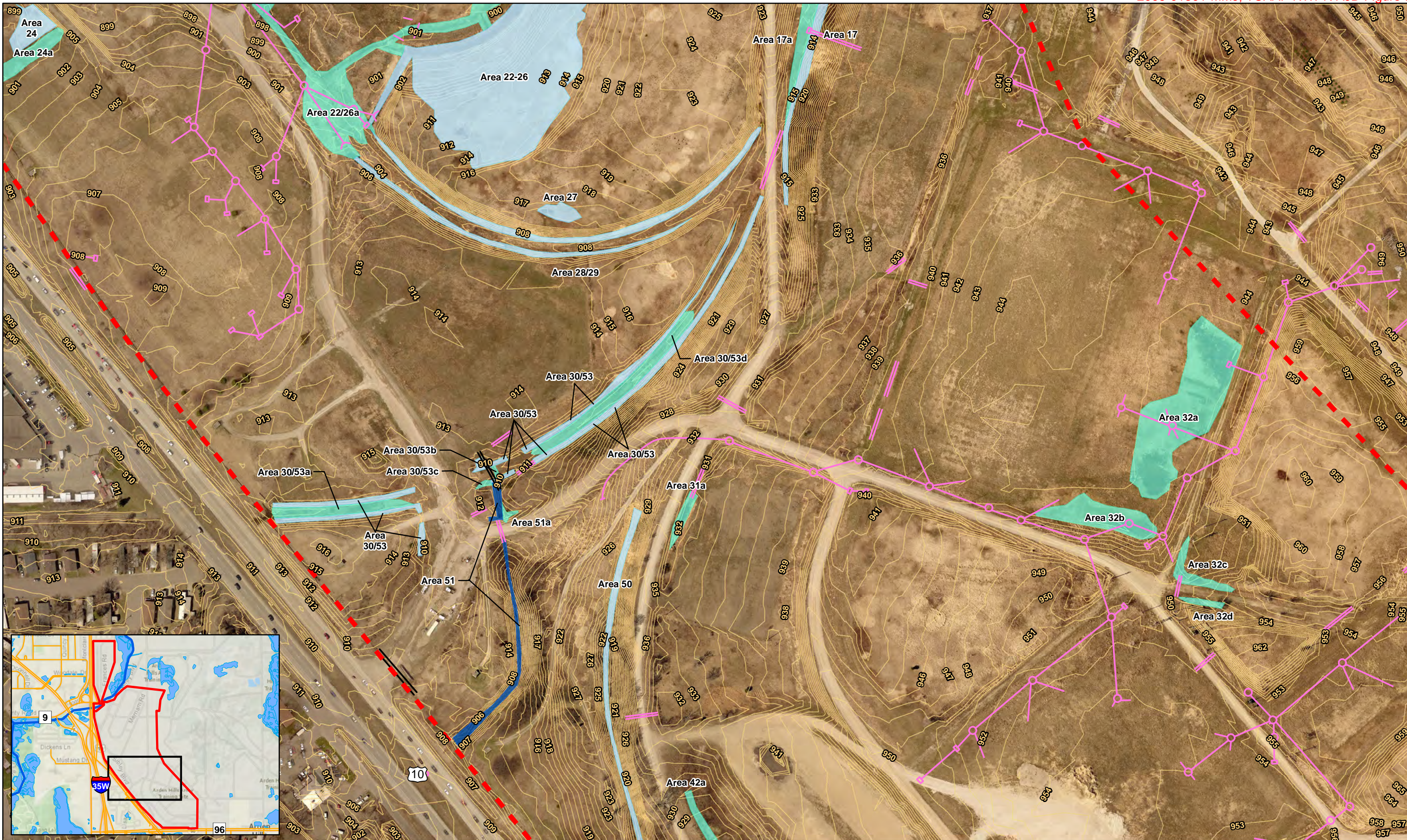
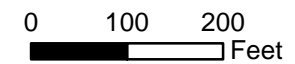
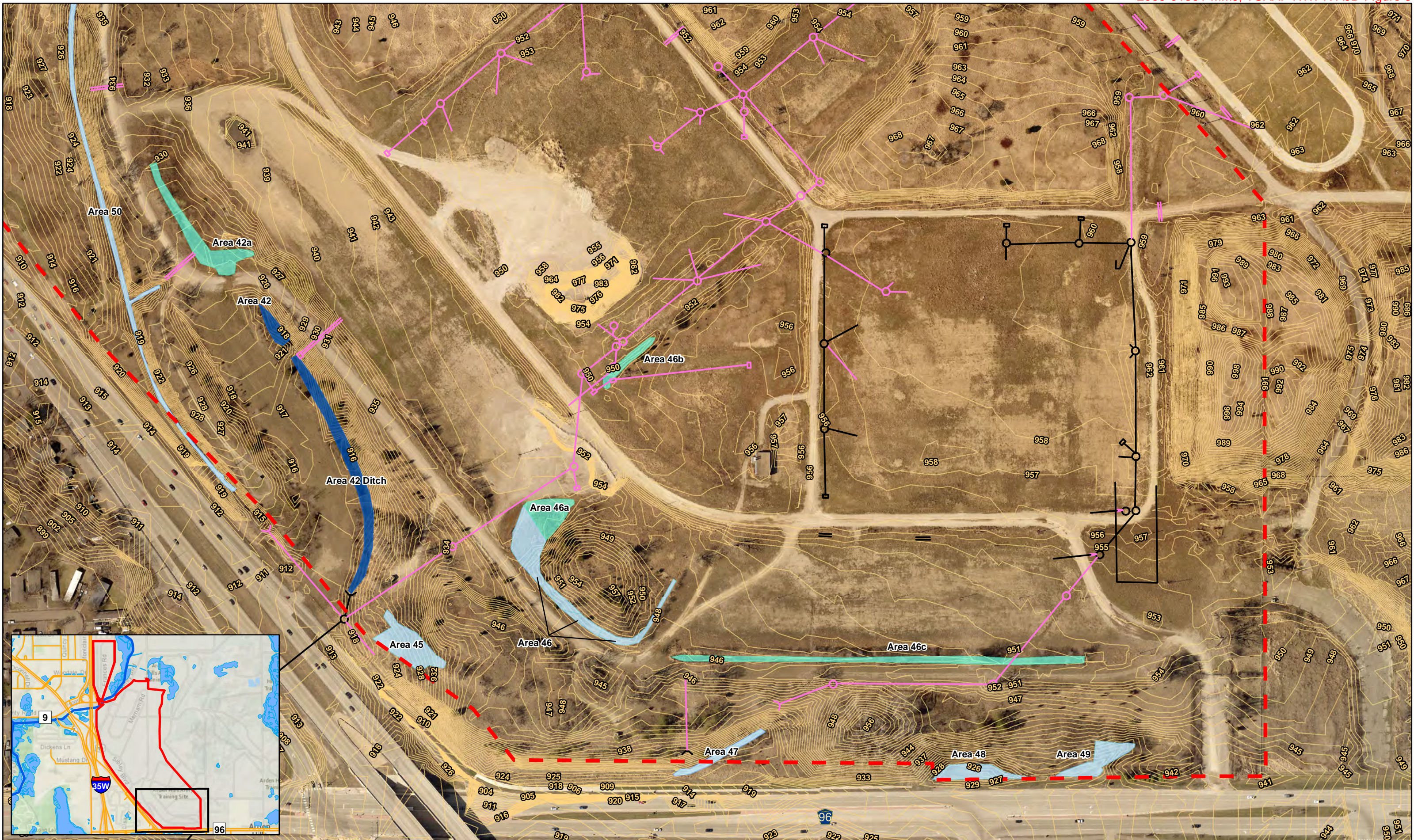
-  Stormsewer Removed (2012-2016)
-  Stormsewer In-Place
-  Post-Remediation Contours (2016)



Figure 1C - 2018 Aerial with Contours and 2019 Level 1 Delineation



- ▬ Project Study Area
- Level 1 Delineated Wetlands
- 2014 Wetlands
- 2016 Corps Regulated Wetlands
- Stormsewer Removed (2012-2016)
- Stormsewer In-Place
- Post-Remediation Contours (2016)

Figure 1D - 2018 Aerial with Contours and 2019 Level 1 Delineation



 Project Study Area
 Rice Creek Meander Study Area

 Level 1 Delineated Wetlands
 2014 Wetlands
 2016 Corps Regulated Wetlands




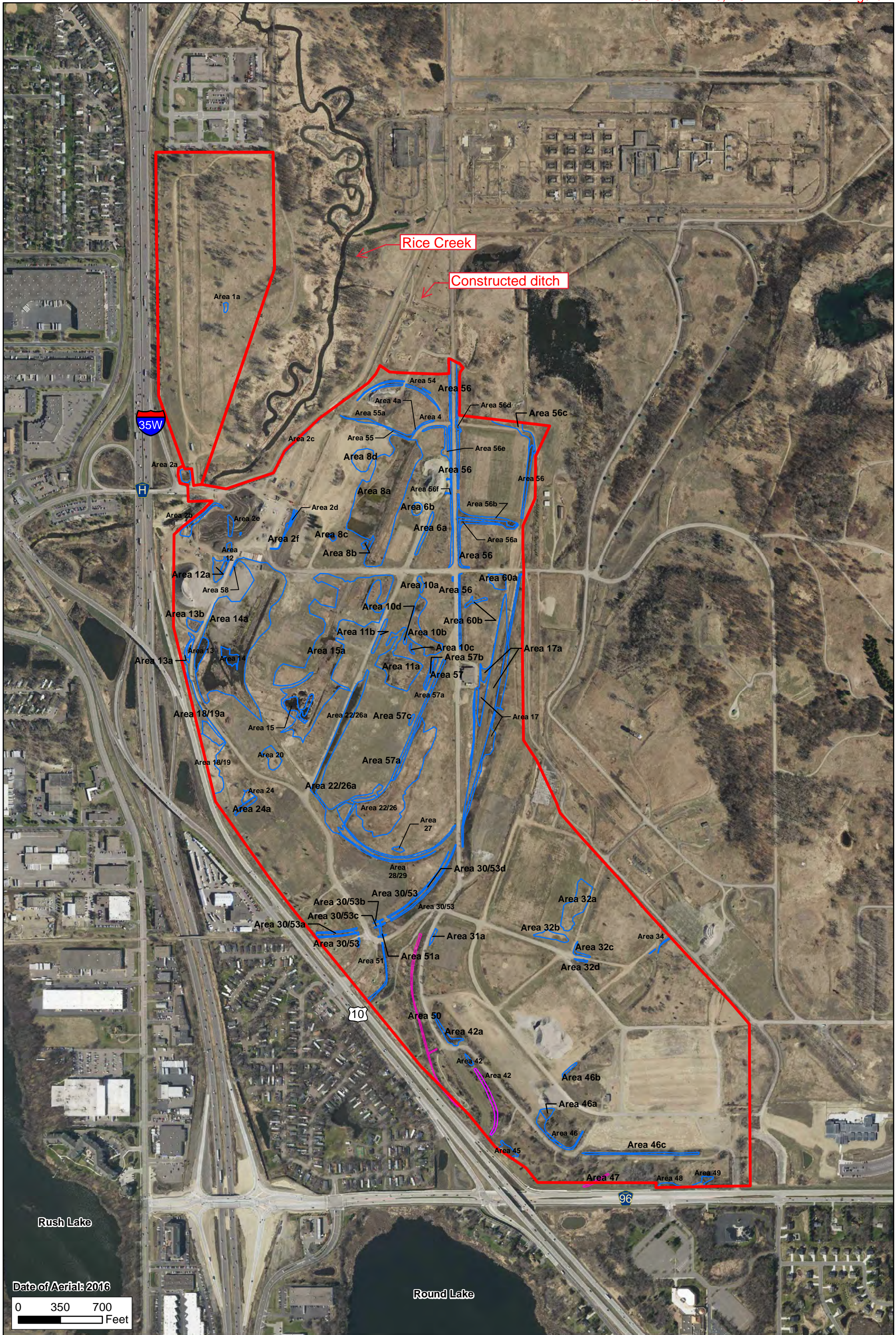
 Stormsewer Removed (2012-2016)
 Stormsewer In-Place
 Post-Remediation Contours (2016)

Figure 1E - 2018 Aerial with Contours and 2019 Level 1 Delineation



Date of Aerial: 2016
 0 350 700 Feet



- Project Study Area
- Delineated Wetland Boundaries
- Drainage Ditches

Figure 1F - Overview of Wetlands and Aquatic Resources

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Ramsey County		File No.: MVP-2009-01301-MMJ	Date: 11/16/2020
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
	PROFFERED PERMIT (Standard Permit or Letter of permission)		B
	PERMIT DENIAL		C
X	APPROVED JURISDICTIONAL DETERMINATION		D
	PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

U.S. Army Corps of Engineers
St. Paul District, Regulatory Branch
180 Fifth Street East
St. Paul, MN 55101-1678

If you only have questions regarding the appeal process you may also contact the Division Engineer through:

Administrative Appeals Review Officer
Mississippi Valley Division
P.O. Box 80 (1400 Walnut Street)
Vicksburg, MS 39181-0080
601-634-5820 FAX: 601-634-5816

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

Appendix C: Photos



Photo 1: Wetland Area 56 facing south



Photo 3: Incidental Wetland Area 56c facing northwest



Photo 5: Incidental Wetland 4a facing southwest



Photo 2: Incidental Wetland Area 56d facing south



Photo 4: Incidental Wetland Area 56e facing north



Photo 6: Incidental Wetland 55a facing west



Photo 7: Incidental Wetland 56b and Wetland Area 56 facing east



Photo 9: Incidental Wetland 8a facing east, wetland area expanding since 2019



Photo 11: Incidental Wetland 2f facing east



Photo 8: Incidental Wetland 8b facing south, wetland area expanding since 2019



Photo 10: Incidental Wetland 6a facing northeast



Photo 12: Incidental Wetland 13b facing southwest



Photo 13: Incidental Wetland 18/19a facing southeast



Photo 15: New roadside ditch facing south



Photo 17: Incidental Wetland 22/26a facing east



Photo 14: Linear wetland connecting Incidental Wetland 14a and 15a



Photo 16: New roadside ditch facing northeast



Photo 18: Wetland Area 22-26 facing north, appears drier



Photo 19: Wetland Area 22-26 facing south, appears drier



Photo 21: Wetland Area 51 facing south



Photo 23: Wetland Area 49 facing south



Photo 20: Incidental Wetland 30/53a facing west



Photo 22: Wetland Area 45 facing north, appears drier



Photo 24: Wetland Area 1a facing northeast



Photo 25: Wetland Area 13 facing east